EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

S	T	E	V	EN	В.	BARGER,
2	İ	E	٧	EN	В.	BARGER,

Plaintiff,

v.

Civil Case No. 1:17-cv-04869-FB-LB

FIRST DATA CORPORATION,

Defendant.

AFFIDAVIT OF GARY B. EIDELMAN IN SUPPORT OF DEFENDANT'S BILL OF COSTS

- 1. I am a partner with the law firm of Saul Ewing Arnstein & Lehr LLP and lead counsel for Defendant First Data Corporation in this matter. I am over twenty-one years of age. I have personal knowledge of the facts contained in this Affidavit and am competent to testify as a witness as to those facts. I make this Affidavit in support of Defendant's Bill of Costs.
- 2. On February 28, 2018, Defendants First Data Corporation, Frank Bisignano, Dan Charron, Anthony Marino, Karen Whalen, and Rhonda Johnson filed a Motion for Summary Judgment against Plaintiff Steven Barger. On that same date, Plaintiff Steven Barger crossmoved for summary judgment. *See* ECF Doc. No. 94.
 - 3. On May 22, 2019, the Court denied Defendants' Motion for Summary Judgment.
- 4. On September 6, 2019, the Court denied Plaintiff's Motion for Summary Judgment.
- 5. Trial before a jury commenced in this action on September 16, 2019. The trial lasted seven days.

- 6. On September 24, 2019, the Jury returned a verdict for Defendant¹ First Data. Judgment was entered in favor of Defendant First Data Corporation on all counts and the case was closed on September 24, 2019. ECF Doc. Nos. 133 and 134.
- 7. The costs incurred by Defendant after the filing of Plaintiff's Complaint and Supplemental Complaint recoverable pursuant to 28 U.S.C. § 1920, are as follows:
- Judgment. The depositions of Anthony Marino, Steven Barger, Karen Whalen, Daniel Charron, Frank Bisignano, Rhonda Johnson, Robin Ording, Amy Steffen, and Matthew Cagwin were taken and their transcripts used in support of Defendants' Motion for Summary Judgment. The deposition of Josh King was used in support of Plaintiff's Motion for Summary Judgment (in addition to many of the depositions upon which Defendant relied). Defendant incurred the costs of these depositions in the amount of \$14,937.78. The invoices for these depositions are attached hereto as Exhibit 1.
- b. **Deposition Transcripts Used or Received in Evidence at Trial.**Depositions of Harry Baddour, M.D., Ashely Parrish, R.N., and Kathi Benhardt were read into the record during trial by Plaintiff, and Grant Barger's transcript was used for impeachment purposes during trial. Defendant incurred costs of these depositions in the amount of \$3,486.45. The invoices for the deposition transcripts are attached hereto as Exhibit 2.
- c. **Deposition Ordered by the Court**. The deposition of Julie Kelly was ordered by the Southern District of Ohio court on August 14, 2018, and again September 19, 2018 (due to Ms. Kelly's noncompliance), after numerous attempts were made to notice and

¹ On January 30, 2018, Plaintiff voluntarily dismissed his claims against Defendant Lori Graesser. On May 22, 2019, the Court dismissed Defendant Karen Whalen. On September 23, 2019, Plaintiff voluntarily dismissed his claims against Defendants Frank Bisignano, Dan Charron, Anthony Marino, and Rhonda Johnson.

serve her with a subpoena and her failure to show for the noticed depositions.² Defendants filed a Motion to Compel her deposition in the Southern District of Ohio and after being briefed and hearing argument, the Court ordered her to appear for her deposition at the federal courthouse. Defendant incurred costs of Kelly's deposition in the amount of \$485.70 for the first deposition in which Ms. Kelly did not appear and a Statement for the Record was recorded. Defendant incurred costs of the second deposition where Ms. Kelly appeared and testified of \$2,110.60. The taxable costs related to the taking of Ms. Kelly's depositions are \$2,596.30, and the invoices for these depositions are attached hereto as Exhibit 7.

d. **Fees for Daily Trial Transcripts**. Daily transcripts for four days of witness testimony was necessary due to the length of the trial, the complexity of the case, the Defendant's unique burden in this case, and the strategy Plaintiff employed to eight of Defendant's witnesses, including the four individual defendants in his case-in-chief. This necessitated daily transcripts to that Defendant could determine whether it would be necessary to recall any of those witnesses to testify once Plaintiff rested. Due to the length and complexity of the case and Plaintiff's changing theories of liability, daily trial transcripts were also necessary for Defendant to effectively cross-examine the Plaintiff (whose testimony spanned two days) and to develop its closing arguments (and Defendant used the daily trial transcripts in its closing arguments as a demonstrative exhibits).

² The Docket from the action in the Southern District of Ohio is attached hereto as <u>Exhibit 3</u>. The Court's Order compelling Ms. Kelly's deposition is attached hereto as <u>Exhibit 4</u>. The corresponding docket and Order of the Court in the Northern District of Alabama regarding Grant Barger's compelled deposition is attached hereto as <u>Exhibits 5</u> and 6.

The total costs for the daily trial transcripts of the proceedings on September 16-20, 2019, are \$5,841.36, consisting of 732 transcript pages at \$7.98 per page.³ The supporting documentation is attached hereto as Exhibit 8.

- e. **Exemplifications and Copies of Papers.** Defendant had 96 trial exhibits admitted in to evidence during the trial totaling 565 pages at the reasonable rate of .10 per page for a total cost of \$56.50.
- f. Witness Fees, Travel Expenses, and Subsistence. Witness fees were provided to Julie Kelly, Ashley Parrish, R.N., and Harry Baddour, M.D. in the amount of \$40.00 each in connection with their depositions in which their transcripts were used during trial.

Defendant incurred travel expenses for Kathi Benhardt to travel from Charlotte, North Carolina to Omaha, Nebraska for her deposition, portions of which were read into the record during trial.

Defendant also incurred expenses including airfare, subsistence, and hotel for the following witnesses who testified at trial in this matter: Jennifer Voycheske, who traveled from Omaha, Nebraska to New York; Justin Stamey, who traveled from Atlanta, Georgia to New York; and Matthew Cagwin, who traveled from Atlanta, Georgia to New York. The total travel and related costs Defendant incurred for Benhardt, Voycheske, Stamey, and Cagwin are \$5,209.10. The supporting documentation is attached hereto as Exhibits 9.4

g. **Docket and Miscellaneous Fees**. Process server fees were incurred in serving Julie Kelly, Grant Barger, Harry Baddour, M.D. and Ashley Parrish, R.N. with

³ Defendant made this calculation based on the total bill that was paid to the Court Reporter.

⁴ Expenses for which Defendant is not seeking reimbursement in <u>Exhibit 9</u> are indicated by being crossed out in black marker.

subpoenas in connection with their depositions in the amount of \$535.00. The invoices for these costs are attached hereto as Exhibit 10.

8. The amount of the costs incurred by Defendant for each specified expenditure set forth in this Affidavit are correct and have been necessarily incurred in this case and the services for which said fees have been charged were actually and necessarily performed.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: October 16, 2019 Baltimore, Maryland

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EXHIBIT 1

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 8 of 116 PageID #: 7636



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No.
57440	6/27/2018	28016
Job Date	Case	No.
6/1/2018		
	Case Name	
Barger v. First Data	et al.	
	Payment Terms	
	Due upon receipt	

	TOTAL DUE	>>>			\$2,301.52
Video Copy	4.00	Hours	@	95.00	380.00
Anthony Marino - Video Order					
VIDEO DEPOSITION OF:					
Shipping and Handling	1.00		@	30.00	30.00
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
Rough Ascii	231.00	Pages	@	1.75	404.25
Exhibit	37.00	Pages	@	0.50	18.50
5 Day Expedite Charge					478.82
Anthony Marino	269.00	Pages	@	3.55	954.95
TAKEN DEPOSITION OF:					

Location of Job : Regus

300 Cadman Plaza West One Pierrepont Plaza Brooklyn, NY 11201

Thank you for your business! We now accept all major credit cards. To make a payment via credit card please call us or fax in a completed CC form.

Invoices are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST Invoice No. : 57440 Invoice Date : 6/27/2018

Total Due : \$0.00

BALTIMORE, MD 21202-3133

Remit To: Eco Scribe, LLC

34 Shunpike Road

Suite 3-255

Cromwell, CT 06416

Job No.

: 28016

BU ID

: E-Boston

Case No.

0.

Case Name



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No.
57632	8/1/2018	28256
Job Date	Case	No.
6/29/2018		
	Case Name	
Barger v. First Data	et al.	
	Payment Terms	
	Due upon receipt	

	TOTAL DUE	>>>			\$2,152.80
Video Copy	5.00	Hours	@	95.00	475.00
Frank Bisignano - Video Order					
VIDEO DEPOSITION OF:					
Shipping and Handling	1.00		@	30.00	30.00
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
Rough Ascii	272.00	Pages	@	1.75	476.00
Exhibit	30.00	Pages	@	0.50	15.00
Frank Bisignano	316.00	Pages	@	3.55	1,121.80
TAKEN DEPOSITION OF:					

Location of Job : Regus

100 Church Street

8th Floor

New York, NY 11201

Thank you for your business! We now accept all major credit cards.

To make a payment via credit card please call us or fax in a completed CC form.

Invoices are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Remit To: Eco Scribe, LLC

: 57632 Invoice No.

Invoice Date : 8/1/2018

\$0.00 **Total Due**

Job No.

: 28256

BU ID

: E-Boston

Case No.

Suite 3-255 Cromwell, CT 06416

34 Shunpike Road

Case Name

INVOICE



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No.
57642	8/1/2018	28261
Job Date	Case	No.
6/27/2018		
	Case Name	
Barger v. First Data	et al.	
	Payment Terms	

TAKEN DEPOSITION OF:					
Rhonda Johnson	253.00	Pages	@	3.35	847.55
Exhibit	88.00	Pages	@	0.50	44.00
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
Shipping and Handling	1.00		@	30.00	30.00
TAKEN DEPOSITION OF:					
Rhonda Johnson - Video Order					
Video Copy	5.50	Hours	@	95.00	522.50
	TOTAL DUE	>>>			\$1,479.05

Location of Job : Regus

Regus

One Glenlake Parkway

Suite 650

Atlanta, GA 30328

Thank you for your business! We now accept all major credit cards. To make a payment via credit card please call us or fax in a completed CC form.

Invoices are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.

For questions or disputes please contact us at (646) 862-1465 or email us at info@EcoScribeSolutions.com

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133 Invoice No. : 57642
Invoice Date : 8/1/2018 **Total Due** : **\$0.00**

Remit To: Eco Scribe, LLC 34 Shunpike Road

Suite 3-255

Cromwell, CT 06416

Job No. : 28261 BU ID : E-Boston

Case No.

Case Name : Barger v. First Data et al.



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No.
57905	11/8/2018	28591
Job Date	Case	No.
8/21/2018		
	Case Name	
Barger v. First Data	et al.	
	Payment Terms	
	Due upon receipt	

TAKEN DEPOSITION OF:

Amy Steffen

Exhibit

Archive CD/Electronic Delivery/Online Access

Shipping and Handling

178.00 Pages @ 3.35 596.30 36.00 72.00 Pages (0) 0.50 35.00 35.00 1.00 @ 30.00 1.00 30.00

TOTAL DUE >>>

\$697.30

Location of Job : Regus

1299 Farnam Street

Suite 300

Omaha, NE 68102

Thank you for your business! We now accept all major credit cards. To make a payment via credit card please call us or fax in a completed CC form.

Invoices are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.

For questions or disputes please contact us at (646) 862-1465 or email us at info@EcoScribeSolutions.com

(-) Payments/Credits:

697.30

(+) Finance Charges/Debits:

0.00

(=) New Balance:

\$0.00

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133 Invoice No.

: 57905

Invoice Date : 11/8/2018

Total Due

\$0.00

Remit To: Eco Scribe, LLC

34 Shunpike Road Suite 3-255

Cromwell, CT 06416

Job No.

: 28591

BU ID

: E-Boston

Case No.

Case Name

INVOICE



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No.
57629	8/1/2018	28260
Job Date	Case	No.
6/26/2018		
	Case Name	
Barger v. First Data	et al.	
	Payment Terms	
	Due upon receipt	

	TOTAL DUE	>>>			\$1,206,70
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
Exhibit	145.00	Pages	@	0.50	72.50
Matt Cagwin	144.00	Pages	@	3.35	482.40
TAKEN DEPOSITION OF:					
Shipping and Handling	1.00		@	30.00	30.00
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
Exhibit	45.00	Pages	@	0.50	22.50
Daniel Charron	158.00	Pages	@	3.35	529.30
TAKEN DEPOSITION OF:					

Location of Job : Regus

One Glenlake Parkway

Suite 650

Atlanta, GA 30328

Thank you for your business! We now accept all major credit cards. To make a payment via credit card please call us or fax in a completed CC form.

Invoices are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr

500 E PRATT ST

BALTIMORE, MD 21202-3133

Invoice No.

: 57629

Invoice Date : 8/1/2018

Total Due

\$0.00

Remit To: Eco Scribe, LLC

34 Shunpike Road Suite 3-255

Cromwell, CT 06416

Job No.

: 28260

BU ID

: E-Boston

Case No.

Case Name



Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900

INVOICE

Invoice No.	Invoice Date	Job No.
234605	9/7/2018	201591
Job Date	Case	No.
8/10/2018	1:17-CV-04869-FB-LB	
	Case Name	
Barger -v- First Data	Corporation, et al.	

TRANSCRIPT WITH INDEX OF:

Steven B. Barger - XMEF

Baltimore, MD 21202

179.00 Pages

984.50

TOTAL DUE >>>

\$984.50

Invoice 1 of 4

Due upon receipt and is not contingent on client payment.

ATTENTION

Please update your records with our new remittance address below:

PLANET DEPOS, LLC P.O. BOX 69136 BALTIMORE, MD 21264-9136

For your convenience we now accept payments via wire transfer.

Account Number: 1048289

Wire Routing Number: 055003528

We accept all major credit cards, subject to a 3% convenience fee.

For billing questions, please email billing@planetdepos.com or call 888.433.3767. Invoice disputes must be brought to our attention within 30 days of receipt. Thank you for your business.

(-) Payments/Credits:

984.50

(+) Finance Charges/Debits:

0.00

(=) New Balance:

\$0.00

Tax ID:

Please detach bottom portion and return with payment.

Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900 Baltimore, MD 21202 Invoice No.

: 234605

Invoice Date

: 9/7/2018

Total Due

: \$0.00

Job No.

: 201591

BU ID

: 45-NYC-R

Case No.

: 1:17-CV-04869-FB-LB

Case Name

: Barger -v- First Data Corporation, et al.

Remit To:

Planet Depos, LLC P.O. BOX 69136

INVOICE



Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900 Baltimore, MD 21202

Invoice No.	Invoice Date	Job No		
235992	9/7/2018	201591		
Job Date	Case	No.		
8/10/2018	1:17-CV-04869-FB-LB			
	Case Name			
Barger -v- First Data	Corporation, et al.			
	Payment Terms			

TRANSCRIPT WITH INDEX OF:

Steven B, Barger - XMEF*

179.00 Pages

984.50

TOTAL DUE >>>

\$984.50

Invoice 2 of 4

Due upon receipt and is not contingent on client payment.

ATTENTION

Please update your records with our new remittance address below:

PLANET DEPOS, LLC P.O. BOX 69136 BALTIMORE, MD 21264-9136

For your convenience we now accept payments via wire transfer.

Account Number: 1048289

Wire Routing Number: 055003528

We accept all major credit cards, subject to a 3% convenience fee.

For billing questions, please email billing@planetdepos.com or call 888.433.3767. Invoice disputes must be brought to our attention within 30 days of receipt. Thank you for your business.

(-) Payments/Credits:

984.50 0.00

(+) Finance Charges/Debits:

(=) New Balance:

\$0.00

Tax ID:

Please detach bottom portion and return with payment.

Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900 Baltimore, MD 21202

Invoice No.

: 235992

Invoice Date

9/7/2018

Total Due

: \$0.00

Job No.

: 201591

BU ID

: 45-NYC-R

Case No.

: 1:17-CV-04869-FB-LB

Case Name

: Barger -v- First Data Corporation, et al.

Remit To:

Planet Depos, LLC P.O. BOX 69136

Planet Depos We Make It Happen

Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900 Baltimore, MD 21202

INVOICE

Invoice Date	Job No
9/7/2018	201591
Case	No.
1:17-CV-04869-FB-LB	
Case Name	
Corporation, et al.	
Payment Terms	
	9/7/2018 Case 1:17-CV-04869-FB-LB Case Name Corporation, et al.

TRANSCRIPT WITH INDEX OF:

Steven B. Barger - XMEF

Evening Attendance

Realtime

Additional Realtime Hook-up fee

266.00 Pages

300.00 465.50

95.00

TOTAL DUE >>> \$860.50

Invoice 3 of 4

Due upon receipt and is not contingent on client payment.

ATTENTION

Please update your records with our new remittance address below:

PLANET DEPOS, LLC P.O. BOX 69136 BALTIMORE, MD 21264-9136

For your convenience we now accept payments via wire transfer.

Account Number: 1048289 Wire Routing Number: 055003528

We accept all major credit cards, subject to a 3% convenience fee.

For billing questions, please email billing@planetdepos.com or call 888.433.3767. Invoice disputes must be brought to our attention within 30 days of receipt. Thank you for your business.

Tax ID:

Please detach bottom portion and return with payment.

Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900 Baltimore, MD 21202 Invoice No.

: 235939

Invoice Date

: 9/7/2018

Total Due

: \$0.00

Job No.

: 201591

BU ID

: 45-NYC-R

Case No.

: 1:17-CV-04869-FB-LB

Case Name

: Barger -v- First Data Corporation, et al.

Remit To:

Planet Depos, LLC P.O. BOX 69136

Planet Depos

Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900 Baltimore, MD 21202

INVOICE

Invoice No.	Invoice Date	Job No.
235991	9/7/2018	201591
Job Date	Case	No.
8/10/2018	1:17-CV-04869-FB-LB	
	Case Name	
Barger -v- First Data	Corporation, et al.	
	Payment Terms	
Due upon receipt		

TRANSCRIPT WITH INDEX OF:

Steven B. Barger - XMEF

Rough ASCII

Exhibits

XMEF File

Shipping & Handling

266.00 Pages

TOTAL DUE >>>

364.00 Pages

127.40 95.00

\$656.40

399.00

35.00

Invoice 4 of 4

Due upon receipt and is not contingent on client payment.

ATTENTION

Please update your records with our new remittance address below:

PLANET DEPOS, LLC P.O. BOX 69136 BALTIMORE, MD 21264-9136

For your convenience we now accept payments via wire transfer.

Account Number: 1048289

Wire Routing Number: 055003528

We accept all major credit cards, subject to a 3% convenience fee.

For billing questions, please email billing@planetdepos.com or call 888.433.3767. Invoice disputes must be brought to our attention within

Tax ID:

Please detach bottom portion and return with payment.

Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900

Baltimore, MD 21202

Invoice No.

235991

Invoice Date

: 9/7/2018

Total Due

: \$0.00

Job No.

201591

BU ID

45-NYC-R

Case No.

: 1:17-CV-04869-FB-LB

Case Name

: Barger -v- First Data Corporation, et al.

Remit To:

Planet Depos, LLC P.O. BOX 69136

INVOICE



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No.
57438	6/27/2018	28015
Job Date	Case	No.
5/31/2018		
	Case Name	
Barger v. First Data	et al.	
	Payment Terms	THE STREET

TAKEN DEPOSITION OF:					Advisorate in a second
Robin Ording	170.00	Pages	@	3.55	603.50
5 Day Expedite Charge					302.60
Exhibit	25.00	Pages	@	0.50	12.50
Rough Ascii	145.00	Pages	@	1.75	253.75
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
Shipping and Handling	1.00		@	30.00	30.00
TAKEN DEPOSITION OF:					
Karen Whalen	178.00	Pages	@	3.55	631.90
5 Day Expedite Charge					316.84
Exhibit	16.00	Pages	@	0.50	8.00
Rough Ascii	151.00	Pages	@	1.75	264.25
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
TAKEN DEPOSITION OF:					
Josh King	74.00	Pages	@	3.55	262.70
5 Day Expedite Charge					131.72
Exhibit	30.00	Pages	@	0.50	15.00
Rough Ascii	61.00	Pages	@	1.75	106.75
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133 Invoice No. : 57438 Invoice Date : 6/27/2018

Total Due \$0.00

Remit To: Eco Scribe, LLC

34 Shunpike Road Suite 3-255

Cromwell, CT 06416

Job No.

: 28015

BU ID

: E-Boston

Case No.

Case Name

INVOICE



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No.
57438	6/27/2018	28015
Job Date	Case	No.
5/31/2018		
	Case Name	
Barger v. First Data e	et al.	
	Payment Terms	
	Due upon receipt	

VIDEO DEPOSITION OF:

Video Order

Video Copy

6.00 Hours

95.00

570.00

TOTAL DUE >>>

\$3,614.51

Location of Job : Regus

300 Cadman Plaza West One Pierrepont Plaza Brooklyn, NY 11201

Thank you for your business! We now accept all major credit cards.

To make a payment via credit card please call us or fax in a completed CC form.

Invoices are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.

For questions or disputes please contact us at (646) 862-1465 or email us at info@EcoScribeSolutions.com

(-) Payments/Credits:

3,614.51

(+) Finance Charges/Debits:

0.00

(=) New Balance:

\$0.00

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST

BALTIMORE, MD 21202-3133

Invoice No.

: 57438

Invoice Date : 6/27/2018

Total Due

\$0.00

Remit To: Eco Scribe, LLC

34 Shunpike Road Suite 3-255

Cromwell, CT 06416

Job No.

: 28015

BU ID

: E-Boston

Case No.

Case Name



Gary Eldelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

INVOICE

Involce No.	Invoice Date	Job No.
57438	6/27/2018	28015
Job Date	Cause	No.
5/31/2018		
-	Case Hame	angum de distriction and mission and management and a second and a second
Barger v, First Data et	al,	
/// 10.000000000000000000000000000000000	Payment Terms	
	hthurst cerus	
Due upon receipt		

		W 2 45 / F / W 2 44 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1			
TAKEN DEPOSITION OF:	170.00	Danne	Ø	3.55	603.50
Robin Ording	£70,00	rayes	•	3.33	302.60
S Day Expedite Charge			^	0.50	12.50
Estable		Pages	ø	0.50	
Rough Ascil	145.00	Pages	⊕	1.75	253.75
Archive CD/Electronic Delivery/Online Access				35.00	35.00
Shipping and Handling				30.00	36.00
TAKEN DEPOSITION OF:					F31 00
Karen Whalen	178,00	Pages	⊕	3,55	631.90
5 Day Expedite Charge					316.84
Exhibit	16.00	Pages	Ф	0.50	8.00
Rough Ascil	191.00	Pages	\$	1.75	264.25
Archive CD/Electronic Delivery/Online Access				35.00	35.00
TAKEN DEPOSITION OF:					244 22
Josh King	74.00	Pages	•	3.55	262.70
5 Day Expedite Chargo					131.72
Exhibit	30.00	Pages	Ф	0.50	15.00
Rough Asdi	61.00	Pages	Ø	1.75	106.75
Archive CD/Electronic Delivery/Online Access				35.00	35.00
				project project programme	

Please detach bostom partion and return with payment.

Gary Eldelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MO 21202-3133

; 57438 Involce Date : 6/27/2018 Total Dire : \$3,514.51

Remit To: Eco Scribe, LLC 34 Shunpike Road Suite 3-255 Cromwell, CT 06416

: 28015 Job No. : E-Boston BU ID Cause No.

Case Name



Gary Eldelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

INVOICE

Invoice No.	Involce Date	Job No.
57438	6/27/2018	28015
Job Date	Cause	No.
5/31/2018		
	Case Name	
arger v. Flist Data et	al.	
	Payment Terms	
Nea upon receipt		

VIDEO DEPOSITION OF:				
Video Order	6.00 Hours	€i	95.00	570.00
Video Copy	TOTAL DUE >>	>		\$3,614.51
Thank you for your business! We now accept all major credit cards. To make a payment via credit card please call us or fax in a completed CC form,				
Invokes are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.				
For questions or disputes please contact us at (646) 862-1465 or email us at info@EcoScribeSolutions.com	l			
	(-) Payments/Ci (+) Finance Cha			0.00
	(=) New Balano);		3,614.51

Yax ID

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Gary Eklelman Saul Ewing, Arristoin & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133 Invoke No. : 57438
Invoke Date : 6/27/2018
Yotal Due : \$3,614.51

Remit To: Eco Scribe, LLC 34 Shunpike Road Selte 3-255 Cromwell, CT 06416 Job No. : 28015
BU ID : E-Boston
Cause No. :

Case Name

EXHIBIT 2



Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133

Invoice No.	Invoice Date	Job No
57898	11/8/2018	28592
Job Date	Case	No.
8/22/2018		
	Case Name	
Barger v. First Data	et al.	
	Payment Terms	

TAKEN DEPOSITION OF:					
Keith Benhardt	215.00	Pages	@	3.35	720.25
Exhibit	50.00	Pages	@	0.50	25.00
Archive CD/Electronic Delivery/Online Access	1.00		@	35.00	35.00
Shipping and Handling	1.00		@	30.00	30.00
	TOTAL DUE	>>>			\$810.25

Location of Job : Regus

1299 Farnam Street

Suite 300

Omaha, NE 68102

Thank you for your business! We now accept all major credit cards. To make a payment via credit card please call us or fax in a completed CC form.

Invoices are due 30 days from billed date. Should we require a third party collection agency to collect outstanding balance a 15% collection fee will apply.

For questions or disputes please contact us at (646) 862-1465 or email us at info@EcoScribeSolutions.com

(-) Payments/Credits: 810.25 (+) Finance Charges/Debits: 0.00

(=) New Balance:

\$0.00

Tax ID:

Please detach bottom portion and return with payment.

Gary Eidelman Saul Ewing, Arnstein & Lehr 500 E PRATT ST BALTIMORE, MD 21202-3133 Invoice No.

: 57898

Invoice Date : 11/8/2018

Total Due

: \$0.00

Remit To: Eco Scribe, LLC

34 Shunpike Road Suite 3-255

Cromwell, CT 06416

Job No.

: 28592

BU ID

: E-Boston

Case No.

Case Name

Veritext Corp Southeast Region

1075 Peachtree St. NE, Suite 3625 Atlanta GA 30309 Tel. 770-343-9696 Fax. 770-343-8430 Fed. Tax ID



Invoice #:

Invoice Date: **Balance Due:** ATL3406401

7/12/2018

\$1,046.45

Lindsey C. Kennedy Bill To:

Case:

Saul Ewing Arnstein & Lehr LLP 1 PPG Place

Suite 3010

Pittsburgh, PA, 15222

Barger v. First Data

2939663 | Job Date: 6/25/2018 | Delivery: Normal

Billing Atty: Lindsey C. Kennedy

Location: King & Spaiding

1180 Peachtree Stree, N.E.

Atlanta, GA 30309

Sched Atty: | Saul Ewing Amstein & Lehr LLP

Witness	Description	Units	Quantity	Price	Amount
# A Color of State	Original with 1 Certified Transcript	Page	87.00	\$3.95	\$343.65
	Attendence Fee - Addi Hours	Hour	4.00	\$28.00	\$112,00
Ashley L. Parrish , R.N.	Exhibits - Color	Per Page	10.00	\$0.45	\$4,50
	Litigation Package (all Electronic Files)	1	1.00	\$46,00	\$46.00
Dr. Harry Michael Baddour	Original with 1 Certified Transcript	Page	93.00	\$3,95	\$367.35
	Exhibits - Color	Per Page	19.00	\$0.45	\$8.55
	Exhibits	Per Page	42.00	\$0.45	\$18.90
	Witness Read and Sign Services	1	1.00	\$12,50	\$12.50
	Attendance Fee - First 2 Hours	Hour	1.00	\$98.00	\$98.00
	Shipping & Handling	Package	1.00	\$35.00	\$35.00
Notes:	**************************************		inv	olce Total:	\$1,046.45
N N				Payment:	\$0.00
				Credit:	\$0.00
			31500317	Interest:	\$0.00
			Ba	ance Due:	\$1,046.45

TERMS: Payable upon receipt, Accounts 30 days past due will bear a finance charge of 1.5% per month, Accounts unputed after 90 days agree to pay all collection costs, including reasonable atterney's fees. Contact us to correct payment circors. No adjustments will be made after 90 days. For more information on charges related to our services please consult http://www.veritext.com/services/all-services/services-information.

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P.O. Box 71303 Chicago IL 60694-1303 Involce #:

ATL3406401

Job #:

2939663 7/12/2018

Invoice Date: Balance:

\$1,046.45



Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900 Baltimore, MD 21202

Invoice No.	Invoice Date	Job No.	
255596	1/22/2019	222175	
Job Date	Case	No.	
1/4/2019	1:17-CV-04869-FB-LB		
	Case Name		
Barger -v- First Data	Corporation, et al.		

EXPEDITED TRANSCRIPT WITH INDEX OF:

Phillip D. Morgan - XMEF

EXPEDITED TRANSCRIPT WITH INDEX OF:

Grant Barger - XMEF

Attendance

Exhibits

XMEF File

Shipping & Handling

83.00 Pages

103.00 Pages

834.30

1,287.00 Pages

2.00 Files

450.45 190.00

672.30

120.00

35.00

TOTAL DUE >>>

\$2,302.05

Due upon receipt and is not contingent on client payment.

ATTENTION

Please update your records with our new remittance address below:

PLANET DEPOS, LLC P.O. BOX 69136 BALTIMORE, MD 21264-9136

For your convenience we now accept payments via wire transfer.

Account Number: 1048289

Wire Routing Number: 055003528

We accept all major credit cards, subject to a 3% convenience fee.

Tax ID

Please detach bottom portion and return with payment.

Gary B. Eidelman, Esquire Saul Ewing Arnstein & Lehr Lockwood Place 500 East Pratt Street Suite 900

Baltimore, MD 21202

Invoice No.

: 255596

Invoice Date

: 1/22/2019

Total Due

: \$2,302.05

Job No.

: 222175

BU ID

: 21-OOT-R

: 1:17-CV-04869-FB-LB

Case No. Case Name

: Barger -v- First Data Corporation, et al.

Remit To:

Planet Depos, LLC P.O. BOX 69136

EXHIBIT 3

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 26 of 116 PageID #: 7654

CASREF,CLOSED

U.S. District Court Southern District of Ohio (Cincinnati) CIVIL DOCKET FOR CASE #: 1:18-mc-00010-SJD-SKB

Barger v. First Data Corporation, et al.

Assigned to: Judge Susan J. Dlott

Referred to: Magistrate Judge Stephanie K. Bowman

Case in other court: Eastern District of New York, 1:17cv04869

Cause: No cause code entered

Interested Party

Julie Kelly

represented by Julie Kelly

823 Dorgene Lane Cincinnati, OH 45244

Date Filed: 07/23/2018

Date Terminated: 11/01/2018

513-806-4893

Email: jul kelly@mac.com

PRO SE

Plaintiff

Steven B. Barger

V.

Defendant

First Data Corporation

represented by Matthew Richard Byrne

Jackson Lewis, LLP

PNC Center 26th Floor

201 E. Fifth Street Cincinnati, OH 45202

513-322-5030

Fax: 513-898-0051

Email: matthew.byrne@jacksonlewis.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gillian A. Cooper

Saul Ewing Arnstein & Lehr LLP

650 College Road East

Suite 4000

Princeton, NJ 08540

609-452-5021

Fax: 609-452-6103

Email: Gillian.Cooper@saul.com

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Frank Bisignano

represented by Matthew Richard Byrne

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gillian A. Cooper

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Dan Charron

represented by Matthew Richard Byrne

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gillian A. Cooper

(See above for address)

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 28 of 116 PageID #: 7656

PRO HAC VICE ATTORNEY TO BE NOTICED

Defendant

Anthony Marino

represented by Matthew Richard Byrne

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gillian A. Cooper

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Karen Whalen

represented by Matthew Richard Byrne

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gillian A. Cooper

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Rhonda Johnson

represented by Matthew Richard Byrne

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gillian A. Cooper

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 29 of 116 PageID #: 7657

Date Filed	#	Docket Text	
07/23/2018	1	MOTION to Compel <i>Third Party Witness to Comply with Deposition Subpoena</i> by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Declaration of Gillian A. Cooper, Esq. with Exhibits A-I, # 2 Text of Proposed Order) (Byrne, Matthew) (Entered: 07/23/2018)	
07/23/2018	2	Filing fee: \$ 47.00, receipt number 100CIN034648 (bjc) (Entered: 07/23/2018)	
07/27/2018	3	RESPONSE in Opposition re <u>1</u> MOTION to Compel <i>Third Party Witness to Comply with Deposition Subpoena</i> filed by Interested Party Julie K. Kelly. (Attachments: # <u>1</u> Exhibits) (bjc) (Entered: 07/27/2018)	
07/27/2018	4	MOTION to Quash by Interested Party Julie K. Kelly. (Attachments: # 1 Exhibits) (bjc) Modified docket text on 9/5/2018 (sct). (Entered: 07/27/2018)	
08/03/2018	5	Response in Opposition to Motion re <u>4</u> MOTION to Quash and REPLY to Response to Motion re <u>1</u> MOTION to Compel <i>Third Party Witness to Comply with Deposition Subpoena</i> filed by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # <u>1</u> Exhibit Declaration of Gillian A. Cooper, Esq.) (Byrne, Matthew) Modified docket text on 9/5/2018 (sct). (Entered: 08/03/2018)	
08/14/2018	7	MOTION for Sanctions by Interested Party Julie K. Kelly. (Attachments: # 1 Exhibits) (bjc) Modified Docket Text on 8/15/2018 (bjc). (Entered: 08/14/2018)	
08/14/2018	Minute Entry for proceedings held before Magistrate Judge Stephanie K. Bowman: Telephone Conference re: pending motion to compel and motion to quash held on 8/14/2018. Third Party Witness Julie Kelly appeared pro se. Attorneys Matthew Byrne and Gillian Cooper appeared on behalf of Defendants. The parties agree that Julie Kelly will appear for a deposition on 8/31/2018 at 12:00 PM at the law firm of Jackson Lewis, 201 E. Fifth Street, Cincinnati, OH. The depositi will conclude by 4:00 PM. Defendant First Data Corporation will reimburse Ms. Kelly for child care costs associated with the deposition. Ms. Kelly agrees to accept service of the subpoena for the 8/31/2018 deposition via regular mail. Ms. Kell motion for sanctions will be briefed and all motions will be formally ruled upon once briefing is complete. (km) (Entered 08/14/2018)		
08/29/2018	8	MOTION for Order to Grant 7 Motion for Sanctions by Interested Party Julie K. Kelly. (bjc) (Entered: 08/29/2018)	
08/29/2018	9	NOTICE by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen re <u>8</u> MOTION for Order to <i>Grant Motion for Sanctions</i> (Byrne, Matthew) (Entered: 08/29/2018)	
08/31/2018	10	MOTION for Protective Order by Interested Party Julie K. Kelly. (Attachments: # 1 Exhibits) (bjc) (Entered: 08/31/2018)	

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 30 of 116 PageID #: 7658

09/04/2018	11	RESPONSE in Opposition re 7 MOTION for Sanctions, 8 MOTION for Order to, 10 MOTION for Protective Order and in further support of Defendants' Motion to Compel Third Party Witness (ECF No. 1) filed by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Declaration of Gillian A. Cooper, Esq. with Exhibits A - E, # 2 Text of Proposed Order) (Byrne, Matthew) (Entered: 09/04/2018)	
09/04/2018	12	MOTION to Expedite <i>Time for Kelly to Reply to ECF Nos. 7, 8, and 10</i> by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Text of Proposed Order) (Byrne, Matthew) (Entered: 09/04/2018)	
09/04/2018	13	Supplement to 10 MOTION for Protective Order and REPLY to Response to Motion re 4 MOTION to Quash filed by Interested Party Julie K. Kelly. (Attachments: # 1 Exhibits A-C) (sct) (Entered: 09/05/2018)	
09/05/2018	14	REPLY to Response to Motion re 1 MOTION to Compel <i>Third Party Witness to Comply with Deposition Subpoena</i> filed by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Declaration of Gillian A. Cooper with Exhibits A - E, # 2 Text of Proposed Order) (Byrne, Matthew) (Entered: 09/05/2018)	
09/06/2018		NOTATION ORDER granting in part 12 Defendants' Motion to Expedite Briefing Time for Julie Kelly to Reply to ECF Nos. 7, 8, and 10. Because Ms. Kelly is proceeding pro se, she shall have until 9/14/2018 to file her reply memoranda in support of her motions 7 8 10. The Court further SETS this matter for a telephone conference on all remaining issues on 9/18/2018 at 10:00 AM. Signed by Magistrate Judge Stephanie K. Bowman on 9/6/2018. (km) (Entered: 09/06/2018)	
09/13/2018	<u>17</u>	REPLY to Response to Motion re 7 MOTION for Sanctions filed by Interested Party Julie K. Kelly. (eh) (Entered: 09/13/2018)	
09/13/2018	18	MOTION by Pro Se Litigant to Obtain Electronic Case Filing Rights by Interested Party Julie K. Kelly. (eh) Modified Filer on 9/14/2018 (bjc). (Entered: 09/13/2018)	
09/14/2018	<u>19</u>	MOTION for Extension of Time New date requested 9/17/2018. by Interested Party Julie K. Kelly. (bjc) (Entered: 09/14/2018)	
09/17/2018	20	REPLY to Response to Motion re 10 MOTION for Protective Order filed by Interested Party Julie K. Kelly. (bjc) (Entered: 09/17/2018)	
09/18/2018		Minute Entry for proceedings held before Magistrate Judge Stephanie K. Bowman: Telephone Conference held on 9/18/2018. Attorneys Matthew Byrne and Gillian Cooper appeared on behalf of Plaintiff. Third Party Julie Kelly appeared pro se. Written Order to follow. (km) (Entered: 09/19/2018)	
09/19/2018	21	ORDER granting <u>1</u> Defendants' Motion to Compel Third Party Witness to Comply with Deposition Subpoena. Ms. Julie Kelly must appear for a deposition on 10/15/2018 at 12:00pm to be held at the U.S. Potter Stewart Courthouse, Room 203,	

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 31 of 116 PageID #: 7659

		100 East Fifth Street, Cincinnati, Ohio 45202. Ms. Kelly must bring any and all documents in her possession as requested in the Subpoena previously issued for the 8/31/2018 deposition. The deposition will conclude at 5:00pm unless Defendants choose to conclude prior to 5:00pm. Unless otherwise agreed, Ms. Kelly shall be allowed two five minute breaks and one fifteen minute break during the five hour deposition. Defendants shall reimburse Ms. Kelly for reasonable child care expenses; denying 4 Julie Kelly's Motion to Quash; denying 8 Julie Kelly's Motion for an Order on Her Motion for Sanctions; denying 10 Julie Kelly's Motion for Protective Order; denying 18 Julie Kelly's Motion to Obtain Electronic Case Filing Rights, without prejudice to refiling; granting 19 Julie Kelly's Motion for Extension of Time to File Reply Brief in Support of Motion for Protective Order. Signed by Magistrate Judge Stephanie K. Bowman on 9/19/2018. (km) (Entered: 09/19/2018)	
09/21/2018	22	MOTION for Leave to Appear Pro Hac Vice (Filing fee of \$200 paid, receipt number 0648-6609816) of Gillian A. Cooper by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Certificates of Good Standing, # 2 Text of Proposed Order) (Byrne, Matthew) (Entered: 09/21/2018)	
09/24/2018	23	ORDER granting 22 Motion for Leave to Appear Pro Hac Vice of Gillian A. Cooper. Signed by Judge Susan J. Dlott. (wam) (Entered: 09/24/2018)	
10/02/2018	24	OBJECTIONS TO MAGISTRATE JUDGE ORDER <u>21</u> (Styled as a Motion for 72a) by Interested Party Julie K. Kelly. (Attachments: # <u>1</u> Exhibits) (bjc) Modified to Clarify Docket Text on 10/3/2018 (km). (Entered: 10/03/2018)	
10/03/2018		Notice of Correction re: <u>24</u> Objection to Magistrate Judge Order <u>21</u> . The docket text has been corrected to correctly reflect that the filing is objections to the Magistrate Judge Order under FRCP 72(a). (km) (Entered: 10/03/2018)	
10/05/2018	25	RESPONSE in Opposition re 24 Objection to Magistrate Judge Orderre 21 Order on Motion to Compel,,,,, Order on Motion to Quash,,,, Order on Motion for Order to,,,, Order on Motion for Protective Order,,,, Order on Motion for Miscellaneous Relief,,,, Order on Motion for Extens filed by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2) (Byrne, Matthew) (Entered: 10/05/2018)	
10/05/2018	26	MOTION Shorten Time for Reply re 25 Response in Opposition to Motion, by Defendants Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Text of Proposed Order) (Byrne, Matthew) (Entered: 10/05/2018)	
10/05/2018	<u>27</u>	MOTION for Protective Order by Interested Party Julie K. Kelly. (Attachments: # 1 Exhibits) (mr) (Entered: 10/05/2018)	
10/05/2018	28	MOTION To Reconsider by Pro Se Litigant to Obtain Electronic Case Filing Rights by Interested Party Julie K. Kelly. (mr) (Entered: 10/05/2018)	
10/09/2018	<u>29</u>	ORDER ORDER DENYING INTERESTED PARTYS MOTION FOR 72(A) AND AFFIRMING MAGISTRATE JUDGES	

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 32 of 116 PageID #: 7660

		ORDER TO COMPEL DEPOSITION. Ms. Kelly must appear for a deposition on October 15, 2018 at noon to be held at the United States Potter Stewart Courthouse, Room 203, 100 East Fifth Street, Cincinnati, Ohio 45202. Ms. Kelly must bring any and all documents in her possession as requested in the Subpoena previously issued for the August 31, 2018 deposition. The deposition will conclude no later than 5:00 p.m. Unless otherwise agreed, Ms. Kelly shall be allowed two five minute breaks and one fifteen minute break during the five hour deposition. Defendants must reimburse Ms. Kelly for reasonable child care expenses. Ms. Kellys Motion for Sanctions (Doc. 7), Motion for 72a (Doc. 24), Motion for Protective Order (Doc. 27), and Motion to Reconsider Obtaining Electronic Case Filing Rights (Doc. 28) are denied. Defendants Motion to Shorten Time (Doc. 26) is also denied. Signed by Judge Susan J. Dlott on 10/9/18. (wam) (Entered: 10/09/2018)
10/09/2018	30	RESPONSE in Opposition re <u>26</u> MOTION Shorten Time for Reply re <u>25</u> Response in Opposition to Motion, filed by Interested Party Julie K. Kelly. (jlw) (Entered: 10/10/2018)
10/10/2018	<u>31</u>	MOTION to Clarify 29 Order by Interested Party Julie K. Kelly. (jlw) (Entered: 10/10/2018)
11/01/2018		ORDER denying as moot <u>31</u> Motion to Clairfy Order <u>31</u> . This case is hereby terminated on the Court's docket. Signed by Judge Susan J. Dlott. (wam) (Entered: 11/01/2018)

PACER Service Center						
Transaction Receipt						
10/16/2019 12:08:45						
PACER Login:	se1264:2832696:0	Client Code:				
Description:	Docket Report	Search Criteria:	1:18-mc-00010-SJD- SKB			
Billable Pages:	5	Cost:	0.50			

United States District Court Southern District of Ohio Western Division

Steven B. Barger,

Case No. 1:18mc00010

Plaintiff.

Judge Susan J. Dlott

٧.

Mag. Judge Stephanie K. Bowman

First Data Corporation, et al.

Defendants.

ORDER

This matter is currently before the Court based upon the filing of a motion to compel by Defendant (Doc. 1) to compel the deposition of a non-party witness Julie K. Kelly. Ms. Kelly filed a motion to quash (Doc. 4) as well as a motion for sanctions (Doc. 7). This matter was previously before the Court for a telephone status conference to discuss the above-mentioned motions. At that time Ms. Kelly agreed to appear for a deposition on August 31, 2018 and the Court requested further briefing on the motion for sanctions. Ms. Kelly then filed a motion for an order on her motion for sanctions (Doc. 8) as well as a motion for protective order (Doc. 10). Ms. Kelly did not appear for her deposition on August 31, 2018 which led the Court to schedule another telephone conference for September 18, 2018. Prior to that conference taking place, Ms. Kelly filed a motion to obtain electronic case filing rights (Doc. 18) and a motion for extension of time to file her reply brief in support of her motion for protective order (Doc. 19). The Court held the previously mentioned conference on September 18, 2018 wherein the Court informed the

parties that it would order Ms. Kelly to appear for a deposition. Based upon this ruling, Ms. Kelly's motion to quash (Doc. 4) is denied.

Ms. Kelly's motion for protective order (Doc. 10) is also denied and Ms. Kelly is ordered to bring with her to the deposition the documents in her possession that are requested in the subpoena for the August 31, 2018 deposition that was served on August 20, 2018. Although the Court cannot, and is not, providing legal advice, Ms. Kelly is directed to carefully review the request for documents, paying particular attention to paragraph one on page one of Attachment A to the subpoena.

At this time the Court will deny the motion to obtain electronic case filing rights, without prejudice. This is a miscellaneous case and under normal circumstances should not require numerous future filings as all pending motions have either been addressed by this order or are fully briefed. However, should circumstances change, Ms. Kelly may renew her motion.

Ms. Kelly's motion for an extension of time is granted. Ms. Kelly requested until September 17, 2018 to file her reply brief in support of her motion for a protective order and she in fact filed her reply on September 17, 2018. Thus, the reply is hereby deemed timely filed.

Thus, having considered the pending motions the Court orders as follows:

 Defendants motion to compel (Doc. 1) is GRANTED. Ms. Kelly must appear for a deposition on October 15, 2018 at 12:00pm to be held at the U.S. Potter Stewart Courthouse, Room 203, 100 East Fifth Street, Cincinnati, Ohio 45202.
 Ms. Kelly must bring any and all documents in her possession as requested in the Subpoena previously issued for the August 31, 2018 deposition. The

deposition will conclude at 5:00pm unless Defendants choose to conclude prior

to 5:00pm. Unless otherwise agreed, Ms. Kelly shall be allowed two five minute

breaks and one fifteen minute break during the five hour deposition.

Defendants shall reimburse Ms. Kelly for reasonable child care expenses.

2. Ms. Kelly's motion to quash (Doc. 4), motion for an order on her motion for

sanctions (Doc. 8), motion for protective order (Doc. 10) and motion to obtain

electronic case filing rights (Doc. 18) are hereby DENIED. The Court will rule

on the pending motion for sanctions in a subsequent order.

3. Ms. Kelly's motion for extension (Doc. 19) is GRANTED.

IT IS SO ORDERED.

s/ Stephanie K. Bowman

Stephanie K. Bowman

United States Magistrate Judge

EXHIBIT 5

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 37 of 116 PageID #: 7665

CLOSED

U.S. District Court Northern District of Alabama (Southern) CIVIL DOCKET FOR CASE #: 2:18-mc-01569-KOB

Barger v. First Data Corporation et al Assigned to: Chief Judge Karon O Bowdre

Plaintiff

Steven B Barger

represented by David A Zeitlin

ZEITLIN & ZEITLIN, P.C.

Date Terminated: 01/28/2019

50 Court Street

Suite 506

Brooklyn, NY 11201

Date Filed: 09/24/2018

718-522-5644

Email: david@zeitlinlawfirm.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Shawn E Shearer

THE LAW OFFICE OF SHAWN SHEARER PC

3839 McKinney Avenue

Suite 155-254

Dallas, TX 75204

214-434-1594

Email: shawn@shearerlaw.pro

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

V.

Defendant

First Data Corporation

represented by Arnold William Umbach, III

STARNES DAVIS FLORIE LLP 100 Brookwood Place, 7th Floor

Birmingham, AL 35209

205-868-6000

Fax: 205-868-6099

Email: tumbach@starneslaw.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gary B Eidelman

SAUL EWING ARNSTEIN & LEHR LLP

500 E Pratt Street

Suite 900

Baltimore, MD

410-332-8975

Fax: 410-332-8976

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Frank Bisignano

represented by Arnold William Umbach, III

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gary B Eidelman

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Dan Charron

represented by Arnold William Umbach, III

(See above for address)

LEAD ATTORNEY

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 39 of 116 PageID #: 7667

ATTORNEY TO BE NOTICED

Gary B Eidelman

(See above for address) *PRO HAC VICE*

ATTORNEY TO BE NOTICED

Defendant

Anthony Marino represented by Arnold William Umbach, III

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gary B Eidelman

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Karen Whalen represented by Arnold William Umbach, III

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Gary B Eidelman

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Defendant

Rhonda Johnson represented by Arnold William Umbach, III

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 40 of 116 PageID #: 7668

Gary B Eidelman

(See above for address)

PRO HAC VICE

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text	
09/24/2018	1	MOTION to Compel Third Parties Phillip Morgan, Grant Barger and Barger Consulting Group to Comply with Deposition Subpoena and Memorandum of Law in Support Thereof by Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Attachments: # 1 Exhibit A-E, # 2 Exhibit F-R)(AFS) (Entered: 09/25/2018)	
09/26/2018	2	MOTION to Strike, Deny or Consolidate by Grant S. Barger. (AFS) (Entered: 09/26/2018)	
10/03/2018	3	RDER with the consent of Chief Judge Karon Bowdre, the Clerk is DIRECTED to reassign this case to Chief Judge owdre. Signed by Judge Abdul K Kallon on 10/3/2018. (AFS) (Entered: 10/03/2018)	
10/03/2018	4	OTICE OF REASSIGNMENT: Case Reassigned to Chief Judge Karon O Bowdre. Judge Abdul K Kallon no longer signed to the case. (AFS) (Entered: 10/03/2018)	
10/05/2018	<u>5</u>	RESPONSE to 1 MOTION to Compel & Motions to Quash & For Protective Order filed by Grant Barger. (JLC) Modified on 10/9/2018 (JLC). (Entered: 10/05/2018)	
10/08/2018	6	MOTION for Admission Pro Hac Vice by Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthon Marino, Karen Whalen. (Umbach, Arnold) (Entered: 10/08/2018)	
10/08/2018		PHV Fee paid for Gary B. Eidelman in the amount of \$50.00, Credit Card receipt number 1126-3190490, NDAL receipt #B4601092576. (Umbach, Arnold) Modified on 10/9/2018 (JLC). (Entered: 10/08/2018)	
10/08/2018	7	TEXT ORDER granting 6 Motion to Admit Gary B. Eidelman Pro Hac Vice. The court advises counsel that it may require a least one attorney for each party to be physically present at every hearing and status conference. Signed by Chief Judge Karon O Bowdre on 10/8/18. (MMW) (Entered: 10/08/2018)	
10/09/2018	8	NOTICE of Clerical Error by Grant S. Barger. (JLC) (Entered: 10/09/2018)	
10/15/2018	9	RESPONSE in Opposition re 1 MOTION to Compel <i>and Opposition to Motion to Quash and for Protective Order</i> filed by Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Umbach, Arnold) (Entered: 10/15/2018)	
10/18/2018	10	REPLY to re 9, 1 SUPPLEMENT to Movants' Reply to Opposition to Motion to Compel and Opposition to Motion to Quash	

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		and for Protective Order filed by Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Umbach, Arnold) (Entered: 10/18/2018)	
10/19/2018	11	REPLY to Opposition to Motion to Compel and Opposition to Motion to Quash and for Protective Order re 9 RESPONSE in Opposition filed by Grant S. Barger. (JLC) (Entered: 10/19/2018)	
10/19/2018	12	NOTICE by Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen re 11 REPLY (other), 9 Response in Opposition to Motion, 10 REPLY (other), 1 MOTION to Compel <i>of CORRECTION</i> (Umbach, Arnold) (Entered: 10/19/2018)	
10/22/2018	<u>13</u>	MOTION for Sanctions by Grant S. Barger. (JLC) (Entered: 10/22/2018)	
10/22/2018	14	OBJECTION TO NOTICE OF CORRECTION AND MOTION FOR SANCTIONS by Grant S. Barger. (JLC) (Entered: 10/22/2018)	
10/24/2018	15	Opposition to re 14, 13 Defendants' Opposition to Grant Barger's Motion for Sanctions 13 and Objection to Notice of Correction and Motions for Sanctions 14 filed by Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Umbach, Arnold) (Entered: 10/24/2018)	
10/29/2018	<u>16</u>	REPLY IN SUPPORT OF GRANT BARGER'S MOTION FOR RULE 11 SANCTIONS (Docket No. 13)AND OBJECTI TO NOTICE OF CORRECTION AND MOTIONS FOR SANCTIONS(Docket No.14) filed by Grant S. Barger. (JLC) (Entered: 10/29/2018)	
12/14/2018	17	MEMORANDUM OPINION regarding "Defendants' Motion to Compel Third Parties Phillip Morgan, Grant Barger and Barger Consulting Group to Comply with Deposition Subpoena and Memorandum of Law in Support Thereof." (Doc. 1). Signed by Chief Judge Karon O Bowdre on 12/14/2018. (LMG) (Entered: 12/14/2018)	
12/14/2018	18	ORDER: As explained in the Memorandum Opinion filed with this Order, the court GRANTS IN PART and DENIES IN PART Defendants motion to compel. (Doc. 1). The court GRANTS the motion to compel in full against Mr. Morgan and DENIES the motion to compel in full against Barger Consulting Group. As to Mr. Barger, the court GRANTS the motion as to information requested in items 1 through 16 to the extent Mr. Barger possesses that information; GRANTS the motion as to the information in items 17 and 19 and as to the deposition; DENIES the motion as to the information requested in items 1 through 16 to the extent Mr. Barger lacks possession over that information; and DEFERS ruling on the motion to compel as to item 18. Mr. Barger shall file a privilege log detailing which communications requested are protected by the attorney-client privilege on or before January 7, 2019. Failure to do so will result in waiver of Mr. Bargers privilege and granting of the motion to compel as to item 18. The court DENIES Mr. Bargers motions for Rule 11 sanctions. (Docs. 13 & 14). Signed by Chief Judge Karon O Bowdre on 12/14/2018. (LMG) (Entered: 12/14/2018)	
12/17/2018	<u>19</u>	ORDER This matter comes before the court on Grant Bargers Motion to Strike, Deny or Consolidate. 2. Mr. Barger seeks to	

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		strike the motion to compel, <u>1</u> or to consolidate this case with a prior case, Case No. 2:18-mc-01491-KOB, regarding the same underlying subpoenas; This court has already ruled on the motion to compel in this case, <u>18</u> and the other case remains closed. Therefore, the court FINDS AS MOOT <u>2</u> Mr. Bargers Motion to Strike, Deny or Consolidate Signed by Chief Judge Karon O Bowdre on 12/17/2018. (KAM) (Entered: 12/17/2018)
01/04/2019	<u>20</u>	NOTICE OF PRIVILEGE LOG by Grant S. Barger. (JLC) (Entered: 01/08/2019)
01/14/2019	21	ORDER TO SHOW CAUSE; Defendants are hereby ORDERED to SHOW CAUSE in writing, on or before January 28, 2019, why the Court should not deny their 1 Motion to Compel, as to the documents listed in Mr. Grant Barger's privilege log. Signed by Chief Judge Karon O Bowdre on 1/14/2019. (JLC) (Entered: 01/14/2019)
01/23/2019	22	RESPONSE to re 21 filed by Frank Bisignano, Dan Charron, First Data Corporation, Rhonda Johnson, Anthony Marino, Karen Whalen. (Umbach, Arnold) (Entered: 01/23/2019)
01/28/2019	23	ORDER DISMISSING CASE as set out herein. Signed by Chief Judge Karon O Bowdre on 1/28/2019. (JLC) (Entered: 01/28/2019)

PACER Service Center			
	Transact	ion Receipt	
	10/16/20	19 11:10:44	
PACER Login:	se1264:2832696:0	Client Code:	
Description:	Docket Report	Search Criteria:	2:18-mc-01569- KOB
Billable Pages:	4	Cost:	0.40

EXHIBIT 6

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

STEVEN B. BARGER,)
Plaintiff,	Case No. EDNY 1:17-cv-04869-FB-LB
v.	Case No. 2:18-MC-01569-KOB
FIRST DATA CORPORATION, et al.,))
Defendants.	<i>)</i>)

ORDER

This matter comes before the court on "Defendants' Motion to Compel Third Parties Phillip Morgan, Grant Barger and Barger Consulting Group to Comply with Deposition Subpoena and Memorandum in Support of Law Thereof," (doc. 1), and Mr. Barger's two motions for Rule 11 sanctions, (docs. 13 & 14).

As explained in the Memorandum Opinion filed with this Order, the court GRANTS IN PART and DENIES IN PART Defendants' motion to compel. (Doc. 1).

The court GRANTS the motion to compel in full against Mr. Morgan.

The court DENIES the motion to compel in full against Barger Consulting Group.

As to Mr. Barger, the court GRANTS the motion as to information requested in items 1 through 16 to the extent Mr. Barger possesses that information; and GRANTS the motion as to the information in items 17 and 19 and as to the deposition; and DENIES the motion as to the information requested in items 1 through 16 to the extent Mr. Barger lacks possession over that information.

The court DEFERS ruling on the motion to compel as to item 18. Mr. Barger shall file a privilege log detailing which communications requested are protected by the attorney-client

privilege **on or before January 7, 2019**. Failure to do so will result in waiver of Mr. Barger's privilege and granting of the motion to compel as to item 18.

The court DENIES Mr. Barger's motions for Rule 11 sanctions. (Docs. 13 & 14).

DONE and **ORDERED** this 14th day of December, 2018.

KARON OWEN BOWDRE

CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

STEVEN B. BARGER,)
Plaintiff,) Case No. EDNY 1:17-cv-04869-FB-LB
v.) Case No. 2:18-MC-01569-KOB
)
FIRST DATA CORPORATION, et al.,)
)
Defendants.)

MEMORANDUM OPINION

In the movie *Groundhog Day*, weatherman Phil Connors finds himself stuck in a time loop in Punxsutawney, Pennsylvania. Each day, he wakes up to the same song, reports on the same news story, and relives the same 24 hours. Likewise, each day since Defendants filed their motion to compel Grant Barger's deposition, this court feels as if it has relived the same 24 hours as Mr. Barger¹ continues to file motions and notices repeating the same arguments. Today, the court ends that time loop.

The late Judge Acker said it best: "Before the court are oceans of motions, motions to compel, motions to quash, and motions for protection." *E.A. Renfroe & Co. v. Rigsby*, No. 06-AR-1752-S, 2008 WL 11376585, at *1 (N.D. Ala. June 24, 2008). This matter comes before the court on "Defendants' Motion to Compel Third Parties Phillip Morgan, Grant Barger and Barger Consulting Group to Comply with Deposition Subpoena and Memorandum in Support of Law Thereof." (Doc. 1). The underlying case, *Barger v. First Data Corp.* (1:17-CV-04869-FB-LB), is pending in the U.S. District Court for the Eastern District of New York. Defendants First Data

¹ The court will only use "Mr. Barger" to refer to Grant Barger, not Steven Barger, throughout this Order.

Corporation, Frank Bisignano, Dan Charron, Anthony Marino, Karen Whalen, and Rhonda Johnson served third-party subpoenas on Phillip Morgan, Grant Barger, and Barger Consulting Group, seeking both depositions and documents. Phillip Morgan, Grant Barger, and Barger Consulting Group all reside in Alabama. Defendants filed their motion to compel in this court on September 24, 2018. (Doc. 1).

On September 26, Mr. Barger, acting pro se, filed his "Motion to Strike, Deny or Consolidate" in response. (Doc. 2). On October 5, Mr. Barger filed his "Response to Motion to Compel & Motion to Quash & for Protective Order." (Doc. 5). On October 15, Defendants filed "Movants' Reply to Opposition to Motion to Compel and Opposition to Motion to Quash and for Protective Order." (Doc. 9). Mr. Morgan never responded to Defendants' motion. The motion to compel is now ripe for review.

I. Background

This case originated as a wrongful termination action in the U.S. District Court for the Eastern District of New York. Plaintiff Steven Barger, a business consultant, filed a complaint against his former employer, First Data Corporation, and several executives. Plaintiff Steven Barger alleges that Defendants wrongfully terminated him in violation of the Family Medical Leave Act and the Americans with Disabilities Act, failed to reasonably accommodate his disability, discriminated against him based on disability, and retaliated against him. *See* (Docs. 1 & 34 in 1:17-cv-04869-FB-LB).

Defendants seek testimony and document production from Phillip Morgan, Grant Barger, and Grant Barger's consulting business. Mr. Morgan is Plaintiff Steven Barger's accountant, and Mr. Barger is Plaintiff Steven Barger's son. (Doc. 1 at 2). In his deposition, Plaintiff Steven Barger claimed that prior to working at First Data in 2014, he had a "lucrative consulting"

business working for his son's consulting business. (*Id.*). But Plaintiff Steven Barger's tax returns from 2012 and 2013 indicate a significantly lower income than he claimed in the deposition. Plaintiff Steven Barger claimed that the money that he earned as a consultant at his son's business, but did not report on his taxes, was "left in Mr. Barger's company."

Plaintiff Steven Barger first began working for First Data as an independent consultant, and then later became an employee of First Data. While Plaintiff Steven Barger was an independent consultant with First Data, his son's business, Barger Consulting Group, sent invoices to First Data for his services. During the three and a half months he worked for First Data as an independent consultant, Plaintiff Steven Barger stated that he charged First Data a monthly fee of \$30,000. First Data explained that, given Plaintiff Steven Barger's monthly fee, Barger Consulting Group should have billed the company for \$105,000 for Plaintiff Steven Barger's services. Instead, Barger Consulting Group billed First Data for \$170,000. When questioned in his deposition about his income and tax return discrepancies, Plaintiff Steven Barger told Defendants to ask his accountant, Mr. Morgan, and his son, Mr. Barger.

Defendants continue to investigate the discrepancies in Plaintiff Steven Barger's tax returns and income to support their after-acquired evidence defense. The U.S. District Court for the Eastern District of New York issued third-party subpoenas to compel testimony and document production by Phillip Morgan and Grant Barger, who work and reside in the Northern District of Alabama, and Barger Consulting Group, Mr. Barger's business. (Doc. 1 at 1). The subpoena for Mr. Morgan seeks various documents and communications with Barger Consulting Group and Plaintiff Steven Barger regarding their tax returns and deductions, in addition to various documents regarding how Barger Consulting Group billed its clients. (Doc. 1-1 at 52–55). The subpoenas seek the same categories of documents from Mr. Barger and Barger

Consulting Group: personnel file and tax documents relating to Plaintiff Steven Barger; documents regarding Barger Group LLC's contracts, invoices, financial statements, retainer fees, billing rates, tax returns, information used in preparation of filing tax return, and profits and losses records, all for the years 2010 through 2017; and communications with Plaintiff Steven Barger, Mr. Morgan, and Shawn Shearer and his law firm concerning the underlying case. (Doc. 1-1 at 66–67, 73–74).

Those subpoenas were served on Mr. Morgan on August 28, 2018, and on Mr. Barger, individually and on behalf of Barger Consulting Group, on September 8, 2018. (Doc. 1-1 at 57, 78). Defendants scheduled both Mr. Morgan's and Mr. Barger's depositions on September 17, 2018, in Birmingham, Alabama.

Defense counsel followed up the subpoenas with emails to Mr. Morgan and Mr. Barger to discuss the subpoenas and document requests. Defense counsel exchanged several emails with Mr. Morgan and Mr. Barger, but neither third party consented to being deposed.

Mr. Barger then filed a motion to quash the subpoena on September 13, 2018, in a different action before this court. *See* (Doc. 1 in No. 2:18-mc-01491-KOB). This court denied the motion to quash. *See* (Doc. 4 in No. 2:18-mc-01491-KOB). Mr. Barger subsequently supplemented the motion to quash, indicating to the court that defense counsel canceled the deposition at issue. *See* (Doc. 6 in No. 2:18-mc-01491-KOB). On September 19, 2018, the court vacated its earlier Order and found the motion to quash as moot, closing the case, because the deposition was seemingly canceled. *See* (Doc. 7 in No. 2:18-mc-01491-KOB).

Defendants then filed the motion to compel at issue in this case on September 24, 2018.

(Doc. 1). Defendants seek to compel third parties Mr. Morgan, Mr. Barger, and Barger

Consulting Group to comply with the deposition subpoenas duces tecum. On September 26,

2018, Mr. Barger filed his "Motion to Strike, Deny or Consolidate." (Doc. 2). He subsequently filed his "Response to Motion to Compel & Motions to Quash & for Protective Orders" on October 5. (Doc. 5). Defendants filed "Movants' Reply to Opposition to Motion to Compel and Opposition to Motion to Quash and for Protective Order" on October 15. (Doc. 9).

At this point, the filings spun out of control. On October 18, Defendants filed "Supplement to Movants' Reply to Opposition to Motion to Compel and Opposition to Motion to Quash and for Protective Order" in response to allegations by Mr. Barger via email that Defendants had not fulfilled their duty to meet and confer. (Doc. 10).

Mr. Barger then filed his "Reply to Opposition to Motions to Quash & for Protective Orders" on October 19. (Doc. 11). Among other things, Mr. Barger notified Defendants that Barger Consulting Group, the company they had subpoenaed, was not the name of his company. In an attempt to fix the naming mistake, Defendants filed their "Notice of Correction" on October 19. (Doc. 12).

Mr. Barger then filed two motions for Rule 11 sanctions against Defendants and defense counsel. (Docs. 13 & 14). On October 24, Defendants filed "Defendants' Opposition to Grant Barger's (1) Motion for Sanctions (ECF No. 13) and (2) Objection to Notice of Correction and Motions for Sanctions (ECF No. 14)." (Doc. 15). Barger concluded by filing his "Reply in Support of Grant Barger's Motion for Rule 11 Sanctions (Docket No. 13) and Objection to Notice of Correction and Motions for Sanctions (Docket No. 14)" on October 29. (Doc. 16).

II. Discussion

Defendants seek the deposition of Mr. Morgan and Mr. Barger in addition to documents produced by Mr. Morgan, Mr. Barger, and Barger Consulting Group. The court will address the motion in reference to each third party in turn.

A. Mr. Morgan

Defendants seek the testimony of Phillip Morgan in support of its after-acquired evidence defense to Plaintiff Steven Barger's wrongful termination claims. Rule 45 of the Federal Rules of Civil Procedure provides several instances in which the court may quash a subpoena. But all of those instances require a timely motion by the person or entity subject to the subpoena. *See* Fed. R. Civ. P. 45(d)(3). Mr. Morgan has not filed any response in this action.

Mr. Barger has included Mr. Morgan in several of his responses and motions. But because Mr. Barger is pro se and not an attorney, Mr. Barger cannot represent Mr. Morgan. Mr. Barger clarifies in his second responsive filing that he seeks to prevent Mr. Morgan from "be[ing] required [to] testify or turnover [sic] documents about me and my business and my documents for the same reasons I argued in my Motion to Quash." (Doc. 5 at 2 n.1).

"When a subpoena is directed to a nonparty, any motion to quash . . . generally must be brought by the nonparty." *E.A. Renfroe & Co.*, 2008 WL 11376585, at *3–4 (quoting 9 *Moore's Federal Practice* § 45.50[3] (3d ed. 2008)). The court recognizes that parties may have standing to challenge a non-party subpoena based on the party's personal right or privilege over the information subpoenaed. *See Brown v. Braddick*, 595 F.2d 961, 967 (5th Cir. 1979) (holding that defendants lacked standing to challenge a non-party subpoena when they were not in possession of the materials and did not allege a personal right or privilege); *Shepherd v. Castle*, 20 F.R.D. 184, 188 (W.D. Mo. 1957) ("Unless a party to an action can make claim to some personal right or privilege in respect to the subject matter of a subpoena duces tecum directed to a non-party witness, the party to the action has no right to relief "); *see also Auto-Owners Ins. v. Southeast Floating Docks, Inc.*, 231 F.R.D. 426, 429 (M.D. Fla. 2005) (finding that defendants failed to show an expectation of privacy in their business transactions, and therefore could not

establish a personal right as to those records). At least one court has held that non-parties also may have standing when challenging subpoenas against other non-parties to obtain information to which the challenging non-party has a personal right or claim of privilege. *See Estate of Ungar v. Palestinian Authority*, 332 F. App'x 643, 645 (2d Cir. 2009) (holding that a non-party had standing to challenge a subpoena over records maintained by its law firm, a different non-party).

Mr. Barger simply requests that "[Mr.] Morgan not be required [to] testify or turnover [sic] document[s] about me and my business and my documents for the same reasons I argued in my Motion to Quash." (Doc. 5 at 2 n.1). But nowhere does Mr. Barger allege that he has a personal right or claim of privilege over any of these documents. Without any evidence proving that he has such a right or privilege, the court cannot find that he has standing to challenge Mr. Morgan's subpoena.

Because Mr. Morgan has not responded to the motion to compel or offered any argument why he should not be required to comply with the subpoena, the court will GRANT the motion to compel with respect to Mr. Morgan.

B. Mr. Barger

Mr. Barger offers several reasons why the court should quash the subpoena seeking his deposition and production of documents. He contends that (1) Defendants lied to this court and the U.S. District Court for the Eastern District of New York; (2) no outstanding subpoena exists; (3) Defendants failed to meet and confer with him prior to filing their motions compelling his compliance with the subpoena; (4) the subpoena requests privileged information; (5) the information sought is duplicative; (6) Defendants are solely requesting certain documents to build a case against Mr. Barger, not for use in the underlying matter; (7) the information

requested contains trade secrets; (8) he does not possess some of the documents requested; and (9) the subpoenas are overbroad and irrelevant. This court will discuss each argument raised.

Under Rule 45(d)(3) of the Federal Rules of Civil Procedure, the court must quash or modify a subpoena on timely motion if the subpoena (1) "fails to allow a reasonable time to comply," (2) "requires a person to comply beyond the geographical limits specified in Rule 45(c)," (3) "requires disclosure of privileged or other protected matter," or (4) "subjects a person to undue burden." The court may quash or modify the subpoena on timely motion if the subpoena requires "disclosing a trade secret or other confidential research, development, or commercial information." Fed. R. Civ. P. 45(d)(3)(B).

To begin, Mr. Barger notes that "I did not have an opportunity to object to the subpoenas because they were determined to be moot. If I had the opportunity to do so, I would say the following" (Doc. 5 at 15). As the court will later explain, the court never found the *subpoenas* to be moot. The court only found that the motion to quash the subpoena was moot. The subpoenas are not moot.

So, Mr. Barger's objections would have been untimely under Rule 45. Under Rule 45, an objection must be served "before the earlier of the time specified for compliance or 14 days after the subpoena is served." Fed. R. Civ. P. 45(d)(2)(B). Because he filed his objections on October 5, 2018, twenty-seven days after the subpoena was served, Mr. Barger's objections were untimely. Because Mr. Barger is pro se and clearly was confused regarding the status of the subpoenas after the court found as moot his initial motion to quash, the court will assume *arguendo* that he timely raised his objections.

i. Lies to the court

Mr. Barger argues that Defendants lied to Judge Bloom of the Eastern District of New York by suggesting that Plaintiff Steven Barger's representations to Joe Plumeri about his monthly income are the only reason why Defendants seek Mr. Barger's deposition. Mr. Barger alleges that the lies continued in the motion to compel in which Defendants misstated the length of time Plaintiff Steven Barger consulted with First Data and omitted any mention of Mr. Barger's attempts to speak with defense counsel prior to the deposition.

Lying to the court is not a ground upon which the court may or must quash a subpoena. See Fed. R. Civ. P. 45(d)(3). In addition, the court is unconvinced that Defendants lied to the court. Mr. Barger contends that he knows nothing about Plaintiff Steven Barger's relationship with Joe Plumeri, and so Defendants' reason for seeking Mr. Barger's deposition must be pretextual. But after denying that he has knowledge of Plaintiff Steven Barger and Mr. Plumeri's relationship, Mr. Barger provides the court with several details about the relationship, like that their friendship goes back three decades. Even if Mr. Barger were to lack any knowledge of the relationship, he may simply state such in his deposition.

Mr. Barger complains that Defendants request 16 categories of information regarding this relationship and Plaintiff Steven Barger's activities as a consultant. But Mr. Barger fails to address—and this court cannot see—how Defendants lied and how any such lying would affect the validity of this facially fair and relevant subpoena.

Mr. Barger alleges that Defendants omitted mentioning Mr. Barger's attempts to speak with defense counsel. This court recognizes that Mr. Barger has repeatedly reached out to defense counsel about the information they sought from him. The court fails to see why Mr. Barger is so resistant to this subpoena when he was so eager to respond to defense counsel in

August 2018 when he emailed defense counsel offering to speak with them prior to even being served a subpoena.

Mr. Barger has not provided evidence that Defendants lied to the court; regardless, lying to the court is not a reason to quash a subpoena under Rule 45(d). So this argument fails.

ii. No subpoena exists

Mr. Barger next argues that no outstanding subpoena exists for his deposition or production of documents. He bases this assertion on this court's September 19, 2018 Order in a related matter, Case No. 2:18-mc-01491-KOB, that mooted his prior motion to quash. In that related matter, Mr. Barger had filed a "Motion to Quash and Motion for Protective Order" regarding the same subpoena at issue in this matter. *See* (Doc. 1 in 2:19-mc-01491-KOB). His argument rested primarily on being unavailable on September 17, 2018, the date defense counsel scheduled his deposition. Mr. Barger later represented to the court that defense counsel had canceled the scheduled deposition at issue. Because Mr. Barger's argument had been resolved—he was no longer required to sit for a deposition on September 17—the court found Mr. Barger's motion to quash as moot. *See* (Doc. 7 in 2:18-mc-01491-KOB).

The court never found the subpoena moot. The subpoenas in this case remain ripe, and so this argument fails.

iii. Failure to meet and confer

Mr. Barger also contends that defense counsel never met and conferred with him prior to filing their motion to compel. Defendants submitted their "Supplement to Movants' Reply to Opposition to Motion to Compel and Opposition to Motion to Quash and for Protective Order" to address this argument. (Doc. 10). But the court need not reach Defendants' supplement to find proof that Defendants did indeed attempt to meet and confer.

Under Rule 37, a motion for an order compelling disclosure or discovery "must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Fed. R. Civ. P. 37(a)(1). Mr. Barger misunderstands the meaning of Rule 37. The rule requires the parties to "confer[] or *attempt*[] to confer," not necessarily a successful remediation of the dispute before turning to the court. *Id.* (emphasis added).

Defendants' original motion, the motion to compel, does include exhibits demonstrating Defendants' attempts to meet and confer with Mr. Barger. Mr. Barger emailed defense counsel on August 14 to discuss scheduling a time to speak. (Doc. 1-2 at 40–49). After Defendants served the subpoena on Mr. Barger on September 8, (doc. 1-1 at 78), defense counsel emailed Mr. Barger on September 11 to set up a date for his deposition, (doc. 1-2 at 10). Mr. Barger responded that defense counsel should have followed up sooner, as he had emailed defense counsel on August 14 to discuss the deposition. Mr. Barger did not respond to defense counsel's inquiry about scheduling, but berated defense counsel for "the cloak and dagger drama of demanding a bunch of papers that I never agreed to give." (*Id.*). Defense counsel followed up with another letter asking Mr. Barger if he was available for a deposition on September 17. (*Id.* at 13). Rather than respond to the letter, Mr. Barger filed a motion to quash in this court. *See* (Doc. 1 in 2:19-mc-01491-KOB).

The record shows plenty of attempts to meet and confer between Defendants and Mr. Barger. Rule 37 does not require the parties to *successfully* meet and confer, nor does it require such a conference to be in person. The email and letter chains back and forth represent attempts between defense counsel to schedule Mr. Barger's deposition and Mr. Barger's concerns regarding the deposition. For example, when Mr. Barger emailed defense counsel that he did not

know why he was being subpoenaed, defense counsel explained why his testimony was relevant to the case and why the deposition must be scheduled quickly. (Doc. 1-2 at 10).

While defense counsel and Mr. Barger were woefully unsuccessful at mediating their own disputes, the court recognizes that Defendants did attempt to confer with Mr. Barger prior to reaching out to the court. Therefore, because Defendants did attempt to meet and confer before filing the motion to compel, this argument fails.

iv. Privileged information

Mr. Barger argues that the subpoena requests information about his confidential communications with employees of the Law Office of Shawn Shearer. Item 18 of Mr. Barger's subpoena requests "[a]ll communications and ESI that you have had with Shawn Shearer, Brenda Barger, or the Law Offices of Shawn Shearer since August 10, 2018 concerning *Barger v. First Data Corporation et al.*" (Doc. 1-1 at 67). According to Mr. Barger, the law firm "has provided [him] corporate and legal advice about [his] business." (Doc. 5 at 12). Defendants also note that Shawn Shearer is Mr. Barger's brother-in-law. (Doc. 1 at 2).

The attorney-client privilege protects confidential communications made between the lawyer, in his professional capacity, and the client for the purpose of securing legal advice. *See United States v. Schaltenbrand*, 930 F.2d 1554, 1562 (11th Cir. 1991) (citing *United States v. Ponder*, 475 F.2d 37, 39 (5th Cir. 1973)) (finding that communications with a lawyer in his capacity as a Deputy Counselor were subject to attorney-client privilege when the defendant approached him for legal advice). The burden of proving that the attorney-client privilege existed rests on the individual invoking that privilege. *See Republic of Ecuador v. Hinchee*, 741 F.3d 1185, 1189 (11th Cir. 2013) (holding that defendant failed to adequately assert attorney-client privilege).

Under Rule 37, the court must quash or modify a subpoena that "requires disclosure of privileged or other protected matter, if no exception or waiver apples." Fed. R. Civ. P. 37(d)(3)(a)(iii). To withhold information because of privilege, a party must "expressly make the claim" and "describe the nature of the documents, communications, or tangible things not produced or disclosed." Fed. R. Civ. P. 26(b)(5)(A). "Filing a privilege log has become the 'universally accepted mean[s] of asserting privileges in discovery in the federal courts." *Smith v. Café Asia*, 256 F.R.D. 247, 250 (D.D.C. 2009) (quoting *Avery Dennison Corp. v. Four Pillars*, 190 F.R.D. 1, 1 (D.D.C. 1999)). Once Mr. Barger produces a privilege log, the court can then determine whether the communications at issue are privileged.

While a court may waive privilege when a party fails to produce a privilege log, waiver is a harsh sanction typically reserved for situations absent excessive delay or bad faith by the proponent. *See Pub. Serv. Co. of NH v. Portland Nat. Gas*, 218 F.R.D. 361, 363 (D.N.H. 2003) ("[U]sing Rule 33(b)(4) to justify a waiver finding when the responding party invokes a privilege but initially fails to produce a privilege log with its discovery responses is unnecessarily harsh."); *see also Smith v. James C. Hormel Sch. of Va. Inst. of Autism*, No. 3:08cv00030, 2010 WL 3702528, at *4–5 (W.D. Va. Sept. 14, 2010) ("Given the sanctity of the attorney-client privilege and the seriousness of privilege waiver, courts generally find waiver only in cases involving unjustified delay, inexcusable conduct and bad faith.").

Because Mr. Barger is pro se, the court recognizes that he is unfamiliar with the Federal Rules of Civil Procedure. Therefore, the court will defer ruling on the motion to compel as to item 18 in the subpoena until Mr. Barger files a privilege log. Mr. Barger shall file a privilege log that describes the documents protected by attorney-client privilege in accordance with Rule 26(b)(5)(A) of the Federal Rules of Civil Procedure **on or before January 7, 2019**. Failure to

file a privilege log by the deadline will result in Mr. Barger's waiver of the attorney-client privilege as to the documents requested in item 18, and the court will grant the motion to compel as to item 18.

v. Duplicative information

Mr. Barger contends that because Defendants obtained the invoices from Mr. Barger's business through other discovery in this case, Mr. Barger does not have to produce the invoices in his possession. He also claims Defendants lack a reason to look at business records of billings to other clients from 2010 through 2017. The latter argument will be discussed later with Mr. Barger's relevance challenge.

Under Rule 45, the court must quash or modify a subpoena that "subjects a person to undue burden." Fed. R. Civ. P. 45(d)(3)(A)(iv). The court also has a duty to minimize imposing an undue burden on a third party. *Id.* 45(d)(1). But Mr. Barger never alleges that the information requested would be a burden to produce, merely that the information sought has been produced by another party.

Another district court has found an undue burden present when a non-party demonstrated that the information sought was readily accessible elsewhere. *See Breland v. Levada EF Five*, *LLC*, CA 14-0158-CG-C, 2015 WL 12995098, at *6 (S.D. Ala. Apr. 30, 2015) (finding that documents were readily accessible via another source when the non-party attached the documents from that source to his motion). But a different district court has also found no undue burden when a probability exists that a potentially duplicative search may unearth additional materials relevant to the main issues of the case. *See Williams v. Sunbelt Rentals, Inc.*, No. 8:04-cv-1395-T27MSS, 2005 WL 8160097, at *3 (M.D. Fla. Oct. 12, 2005) (holding that the search

was not a burden when it would only take a few hours and the previous search from another source turned up numerous missing pages).

Here, Defendants note that Plaintiff Steven Barger was unable to explain discrepancies in his tax returns and told Defendants that his accountant and son could answer these questions. Plaintiff Steven Barger also could not explain questions regarding "suspect invoices that he and G. Barger's company submitted to First Data." (Doc. 9 at 6). In light of the probability of unearthing new, relevant material and Mr. Barger's failure to allege any time or monetary burden in producing this discovery, this argument also fails.

vi. Improper purpose

Mr. Barger argues that Defendants seek his deposition for an improper purpose. He fears that "First Data is trying to use the subpoenas to develop a case against me." (Doc. 5 at 14). Whether the deposition of Mr. Barger and production of the requested documents results in a case against Mr. Barger is not a question for this court. Defendants subpoenaed Mr. Barger for his close relationship with his father, Plaintiff Steven Barger, and Plaintiff Steven Barger's work for Mr. Barger's consulting business, which has resulted in allegedly suspect invoices submitted to First Data. The court finds that the financial information and communications with Plaintiff Steven Barger requested is highly relevant to Defendants' case. Therefore, this argument fails.

vii. Trade secrets

Mr. Barger alleges that the information sought regarding his clients and billing rate from 2010 to 2017 is a trade secret. He notes that "[t]here could be significant damages to my business if clients know I am revealing their information." (Doc. 5 at 14).

Under Rule 45, the court may quash or modify a subpoena if it requires "disclosing a trade secret or other confidential research, development, or commercial information." Fed. R.

Civ. P. 45(d)(3)(B)(i). The burden to establish that the information sought is a trade secret and the harm of its disclosure rests on the party seeking to avoid discovery. *See Sams v. GA West Gate, LLC*, 316 F.R.D. 693, 698 (N.D. Ga. 2016) ("The party resisting discovery must first establish that the information sought is a trade secret [or otherwise confidential] and then demonstrate its disclosure might be harmful."). Once the movant meets this burden, "the burden shifts to the requesting party to show a 'substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated." *Id.* (quoting *Gonzales v. Google, Inc.*, 234 F.R.D. 674, 684 (N.D. Cal. 2006)). The court then applies a balancing test:

[T]his Court must balance [Defendants'] need for discovery against the burden imposed upon [Mr. Barger], along with [his] interest in keeping the requested information confidential. Other factors this Court should consider are the relevance of the requests, the breadth of the request, the time period covered by the requests, and the particularity with which the documents are described. The status of a person as a non-party is a factor that weighs against disclosure.

Matter of Subpoena Issued to Interconn Res., Inc., CV 3:06CV714, 2008 WL 11375414, at *2 (N.D. Ala. Sept. 30, 2008) (quoting Fadalla v. Life Auto. Products, Inc., 258 F.R.D. 501, 504 (M.D. Fla. 2007) (internal citations omitted)).

A mere conclusory statement that information sought *may* contain a trade secret or *could* be harmful is insufficient. *See Sams*, 316 F.R.D. at 698 ("Movant's conclusory statement that the subpoena is too broad and that '*some*' of the responsive documents [*may* be confidential] does not come close to carrying its burden."); *AAL USA, Inc. v. Black Hall Aerospace, Inc.*, No. 2:16-cv-02090-KOB, 2018 WL 2463710, at *2 (N.D. Ala. Feb. 22, 2018) (finding that movant failed to establish information was confidential when it merely recited the subpoena requests). Here, Mr. Barger contends that turning over the identities of his clients and billing rates would harm his business, but provides no further details.

Federal courts have held that customer lists and billing rates may be trade secrets, particularly when the holder of such information takes steps to maintain the confidentiality of that information. *See Rimkus Consulting Grp., Inc. v. Cammarata*, 688 F. Supp. 2d 598, 668 (S.D. Tex. 2010) (finding that billing rates and client lists are confidential when the owner took steps to keep that information secret, even though the information previously was publicly available); *Feldman v. Cmty. Coll. of Allegheny*, 85 F. App'x 821, 827–28 (3d Cir. 2004). *But see Peter Kiewet Sons', Inc. v. Wall St. Equity Grp., Inc.*, No. 8:10CV365, 2011 WL 5075720, at *7 (D. Neb. Oct. 25, 2011) (holding that business documents exchanged with clients cannot be trade secrets when the party seeking to avoid discovery simply claims the information is confidential "without further substantiation," and noting that "even if any of the information or documents sought are indeed confidential, the proper course of action is to enter into a protective agreement . . . not deny the requests altogether"). Mr. Barger has offered no evidence that his client lists are confidentially maintained and not publicly known.

But even assuming that Mr. Barger's customer lists and billing rates are trade secrets, Mr. Barger has failed to establish that disclosure would be harmful. In *Fadalla v. Life Automotive Products, Inc.*, the court found that the party demonstrated disclosure of a client list was harmful when it required the party to breach its non-disclosure and secrecy agreements with its clients. *See* 258 F.R.D. at 506. While the court surmises that situations exist in which client identities and billing rates can be harmful if released, Mr. Barger has offered no evidence or argument that disclosing his business consulting clients or billing rate presents such a risk.

Further, the court finds the "Stipulated Order Regarding Confidentiality of Discovery Material" jointly filed and ordered by Magistrate Judge Bloom in the underlying case is sufficient to protect against the leakage of any potentially confidential information. *See* (Doc. 23)

in 1:17-cv-04869-FB-LB). Therefore, because Mr. Barger has failed to establish that the information sought is a trade secret that if disclosed would result in harm, this argument fails.

viii. Wrong third party

Mr. Barger contends that because the subpoenas seek information belonging to entities, namely Mr. Barger's consulting limited liability company, he lacks the authority to turn over the documents. Subpoenas duces tecum command a person to "produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control." Fed. R. Civ. P. 45(a)(1)(A)(iii). A subpoena cannot require an individual to produce documents over which he lacks possession. *See Learning Connections, Inc. v. Kaufman, Englett & Lynd, PLLC*, 280 F.R.D. 639, 640 (M.D. Fla. 2012) (holding that a protective order was appropriate when the movant submitted an affidavit that she did not have possession of the documents, which the opposing side did not refute).

Mr. Barger states that, because some of the documents requested are not in his possession but in that of his consulting business, he cannot produce those documents. Specifically, the documents requested under items 1 through 16 of the subpoena to Mr. Barger appear to be business records that likely are not in his individual possession. (Doc. 1-1 at 66–67). Defendants have offered no evidence or argument that these documents actually are within Mr. Barger's possession or control. To the extent the documents requested in items 1 through 16 are in possession of the limited liability company, to which Defendants have also issued a subpoena seeking the same records, the court will DENY Defendants' motion to compel the subpoena as to documents over which Mr. Barger does not have possession.

ix. Overbreadth and irrelevance

Mr. Barger challenges the subpoena as being overbroad and irrelevant. Mr. Barger brings three specific challenges to relevancy and breadth of the requests. First, he argues that the documents requested involve an eight-year period and are disproportionate to the needs of the case and broader than necessary to determine Plaintiff Steven Barger's monthly income prior to being hired by First Data. Second, he asserts that his contracts, agreements, and billing practices are irrelevant to the case, particularly those contracts before First Data hired Plaintiff Steven Barger and after First Data terminated Plaintiff Steven Barger. Third, Mr. Barger claims that the documentation of Plaintiff Steven Barger's consulting expenses in connection with Mr. Barger's consulting firm between 2010 and 2017 has "nothing to do with Plaintiff Barger's income."

Rule 26 limits discovery to:

nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Fed. R. Civ. P. 26(b)(1). "Generally speaking, 'relevance' for discovery purposes is broadly construed." *Food Lion, Inc. v. United Food & Commercial Workers Intern. Union, AFL-CIO-CLC*, 103 F.3d 1007, 1012 (D.C. Cir. 1997).

In the underlying district court case in New York, Plaintiff Steven Barger alleges that Defendants wrongfully terminated him in violation of the Family Medical Leave Act and Americans with Disabilities Act, and he seeks millions of dollars in damages. *See* (Doc. 34 in 1:17-cv-04869-FB-LB; Doc. 9 at 9 in 2:18-mc-01569-KOB). Defendants argue that the information sought "goes directly to Defendants' defenses to [Plaintiff Steven Barger's] claims for damages under an after-acquired evidence defense." (Doc. 9 at 9).

After-acquired evidence of an employee's wrongdoing may mitigate damages owed for wrongful termination by the defendant. *See McKennon v. Nashville Banner Publ'g Co.*, 513 U.S. 352, 360 (1995) ("[W]e must consider how the after-acquired evidence of the employee's wrongdoing bears on the specific remedy to be ordered.").

So, Defendants here seek to obtain information regarding Plaintiff Steven Barger's activities when he worked as a consultant for Mr. Barger's consulting firm. The information sought—including Barger Consulting Group's tax returns, contracts with clients, invoices sent to clients, and process of determining consulting fees, in addition to Plaintiff Steven Barger's expenses while he was consulting between 2010 and 2017—are highly relevant to Defendants' defense. Information regarding an employee's wrongdoing is relevant "not to punish the employee, or out of concern 'for the relative moral worth of the parties,' but to take due account of the lawful prerogatives of the employer in the usual course of its business and the corresponding equities that it has arising from the employee's wrongdoing." *McKennon*, 513 U.S. at 361 (quoting *Perma Life Mufflers, Inc. v. Int'l Parts Corp.*, 392 U.S. 134, 139 (1968)).

Federal courts are wary of allowing "fishing-expedition discovery" by employers to find evidence of wrongdoing. *Premer v. Corestaff Servs, L.P.*, 232 F.R.D. 692, 693 (M.D. Fla. 2005). Instead, they "must have some preexisting basis to believe that after-acquired evidence exists before it can take on additional discovery." *Maxwell v. Health Ctr. of Lake City, Inc.*, No. 3:05-CV-1056-J-32MCR, 2006 WL 1627020, at *5 (M.D. Fla. June 6, 2006). But Defendants here are not on a fishing expedition. Plaintiff Steven Barger in his deposition gave rise to inferences of misconduct, and directed Defendants where to uncover more information.

The court disagrees with Mr. Barger's insistence that this information "has absolutely nothing to do with Plaintiff Barger's employment by First Data . . . and his claim that First Data

violated the FMLA and ADA when they terminated him." (Doc. 5 at 16). Plaintiff Steven Barger represented that he left a "lucrative consulting" business to work for First Data, but he only received \$16,210 in 2013 from that business. (Doc. 1-1 at 22). If Plaintiff Steven Barger misrepresented his success, and therefore his experience and qualifications, to First Data and First Data relied upon those misrepresentations, Plaintiff Steven Barger may have committed a wrongdoing that would mitigate First Data's damages.

In his deposition, Plaintiff Steven Barger indicated that he earned more than the income reported on his tax returns, but that the money "all went to the Barger Group, everything got paid to the Barger Group." (Doc. 1-1 at 23). So, if Plaintiff Steven Barger in fact had a lucrative consulting practice, the business's financial records—including its tax returns, financial statements, and invoices sent to clients—should reflect that success, and would explain away the discrepancy between Plaintiff Steven Barger's comments about his income.

But Plaintiff Steven Barger also failed to answer several important questions regarding his tax reports. For example, he was unable to explain why he included business expenses on his personal tax return to offset his income from the consulting practice. (Doc. 1-1 at 24–25). Specifically, he could not explain why the rent for his home office jumped from \$1,500 to \$22,900 for six months or why his income decreased from \$77,000 in 2011 to under \$20,000 in 2012 and 2013, "other than the fact that [Plaintiff Steven Barger] started working . . . at the Barger Group." (*Id.* at 27). Because of the discrepancies in the tax reporting relating Plaintiff Steven Barger to the Barger Consulting Group, analyzing the Barger Consulting Group's broader financial records—including billing rates and contracts with clients to determine the actual income generated—may give a more accurate picture of the financial status of the company, and thus whether Plaintiff Steven Barger actually had a lucrative consulting business.

Therefore, because the information sought seems highly relevant to Defendants' afteracquired evidence defense, this argument, too, fails.

Accordingly, the court will GRANT IN PART and DENY IN PART Defendants' motion to compel. (Doc. 1). The court will GRANT the motion as to the information requested in items 1 through 16 to the extent Mr. Barger possesses that information, and will GRANT the motion as to the information in items 17 and 19. The court will DENY the motion as to the information requested in items 1 through 16 to the extent Mr. Barger lacks possession over that information. The court will DEFER ruling on the motion to compel as to item 18 until it can determine whether the information sought is privileged.

C. Barger Consulting Group

In his "Reply to Opposition to Motions to Quash & for Protective Order," Mr. Barger points out that Barger Consulting Group is not a real Alabama company. (Doc. 11). Mr. Barger owns The Barger Group LLC. (Doc. 14 at 4). After Mr. Barger notified Defendants of their naming mistake in his motion, Defendants promptly filed a Notice of Correction to amend the company name from Barger Consulting Group to The Barger Group LLC in each of its prior filings. (Doc. 12).

Based on the information Defendants have sought since the beginning of this motion to compel, the court is certain that Defendants intended to serve a subpoena on The Barger Group LLC, not the similarly named nonexistent Barger Consulting Group. In their motion to compel, Defendants explained that they sought to depose Grant Barger's company for which Plaintiff Steven Barger worked. (Doc. 1 at 2).

But, because Defendants have not served a subpoena on The Barger Group LLC, the court cannot enforce the motion to compel against it. Therefore, the court must DENY the motion to compel as to Barger Consulting Group.

D. Motions for Rule 11 Sanctions

Mr. Barger also moved this court for Rule 11 sanctions against Defendants and defense counsel. Rule 11 allows the court to sanction an attorney, law firm, or party that presented to the court (1) information for an improper purpose, such as harassment or delay; (2) a claim, defense, or legal contention not supported by existing law or that was frivolous; (3) a factual contention without evidentiary support; or (4) a denial of factual contention without evidentiary support (or not specifically identified as being based on belief or lack of information). *See* Fed. R. Civ. P. 13(b)–(c).

"The goal of Rule 11 sanctions is to 'reduce frivolous claims, defenses, or motions, and to deter costly meritless maneuvers." *Massengale v. Ray*, 267 F.3d 1298, 1302 (11th Cir. 2001) (quoting *Donaldson v. Clark*, 819 F.2d 1551, 1556 (11th Cir. 1987) (en banc)). The court determines whether Rule 11 sanctions are appropriate by considering "reasonableness under the circumstances." *Donaldson*, 819 F.2d at 1556.

While the court is impressed by defense counsel and Mr. Barger's inability to cooperate on any matter, regardless of how small, the court sees no frivolous, meritless, or bad faith claim, defense, motion, or filing on behalf of Defendants. Therefore, the court will DENY both of Mr. Barger's motions for Rule 11 sanctions. (Docs. 13 & 14).

III. Conclusion

For the reasons stated above, the court will GRANT IN PART and DENY IN PART

Defendants' motion to compel. (Doc. 1). The court will GRANT in full the motion against Mr.

Morgan and DENY in full the motion against Barger Consulting Group. As to Mr. Barger, the court will GRANT the motion as to the information requested in items 1 through 16 to the extent Mr. Barger possesses that information, and will GRANT the motion as to the information in items 17 and 19 and as to the deposition. Mr. Barger shall appear for his deposition to be scheduled by defense counsel, while allowing Mr. Barger reasonable time to comply subject to Rule 45(d)(3)(A)(ii). The court will DENY the motion as to the information requested in items 1 through 16 to the extent Mr. Barger lacks possession over that information.

The court will DEFER ruling on the motion to compel regarding Mr. Barger's claim of privilege as to the documents requested in item 18. Mr. Barger shall file a privilege log detailing which communications requested are protected by the attorney-client privilege **on or before**January 7, 2019. Failure to do so will result in waiver of Mr. Barger's privilege, and the court will grant the motion to compel as to item 18.

The court will DENY Mr. Barger's motions for Rule 11 sanctions. (Docs. 13 & 14).

The court will enter a separate Order consistent with this Memorandum Opinion.

DONE and **ORDERED** this 14th day of December, 2018.

Karon O. Bowlee
KARON OWEN BOWDRE

CHIEF UNITED STATES DISTRICT JUDGE

EXHIBIT 7



Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East Suite 4000 Princeton, NJ 08540

INVOICE

Invoice No.	Invoice Date	Job No
244866	11/13/2018	209179
Job Date	Case	No.
10/15/2018	1:17-CV-04869-FB-LB	
	Case Name	
arger -v- First Data	Corporation, et al.	
	Payment Terms	

TRANSCRIPT WITH INDEX OF:

Julie Kelly - XMEF

Attendance
Realtime
Rough ASCII
Exhibits
XMEF File
Processing Fee

Shipping & Handling

5.00 Hours 225.00
192.00 Pages 336.00
192.00 Pages 288.00
244.00 Pages 85.40
95.00
35.00
TOTAL DUE >>> \$2,110.60

1,011.20

Due upon receipt and is not contingent on client payment.

ATTENTION

Please update your records with our new remittance address below:

PLANET DEPOS, LLC P.O. BOX 69136 BALTIMORE, MD 21264-9136

For your convenience we now accept payments via wire transfer.

Account Number: 1048289

Wire Routing Number: 055003528

Tax ID:

Please detach bottom portion and return with payment.

Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East Suite 4000 Princeton, NJ 08540 Invoice No.
Invoice Date

: 244866 : 11/13/2018

Total Due

: \$0.00

256.00 Pages

Remit To: Planet Depos, LLC P.O. BOX 69136

Baltimore, MD 21264-9136

Job No.

: 209179

BU ID

: 21-00T-R

Case No.

: 1:17-CV-04869-FB-LB

Case Name

: Barger -v- First Data Corporation, et al.



Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East Suite 4000 Princeton, NJ 08540

INVOICE

Invoice No.	Invoice Date	Job No.
244866	11/13/2018	209179
Job Date	Case	No.
10/15/2018 1:17-CV-04869-FB-LB		
	Case Name	
Barger -v- First Data (Corporation, et al.	
	Payment Terms	
Due upon receipt		

We accept all major credit cards, subject to a 3% convenience fee.

For billing questions, please email billing@planetdepos.com or call 888.433.3767. Invoice disputes must be brought to our attention within 30 days of receipt. Thank you for your business.

 (-) Payments/Credits:
 2,110.60

 (+) Finance Charges/Debits:
 0.00

(=) New Balance: \$0.00

Tax ID:

Please detach bottom portion and return with payment.

Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East Suite 4000 Princeton, NJ 08540 Invoice No. : 244866
Invoice Date : 11/13/2018
Total Due : \$0.00

Remit To: Planet Depos, LLC P.O. BOX 69136

Baltimore, MD 21264-9136

Job No. : 209179 BU ID : 21-OOT-R

Case No. : 1:17-CV-04869-FB-LB

Case Name : Barger -v- First Data Corporation, et al.

Planet Depos

Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East Suite 4000 Princeton, NJ 08540

INVOICE

Invoice No.	Invoice Date	Job No.			
238452	10/3/2018	203552			
Job Date	Case	No.			
8/31/2018	1:17-CV-04869-FB-LB	1:17-CV-04869-FB-LB			
	Case Name				
Barger -v- First Data	Corporation, et al.				
	Payment Terms				

APPEARANCE
Statement on

Statement on the Record (Julie Kelly) - LEF

Appearance & Statement for the Record

Waiting Time

Rough ASCII Exhibits

LEF File

Processing Fee

Shipping & Handling

TOTAL DUE >>>

11.00 Pages

12.00 Pages

35.00 **\$485.70**

250.00

50.00

16.50

4.20

95.00

35.00

Due upon receipt and is not contingent on client payment.

ATTENTION

Please update your records with our new remittance address below:

PLANET DEPOS, LLC P.O. BOX 69136 BALTIMORE, MD 21264-9136

For your convenience we now accept payments via wire transfer.

Account Number: 1048289

Wire Routing Number: 055003528

Tax ID:

Please detach bottom portion and return with payment.

Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East

Suite 4000

Princeton, NJ 08540

Invoice No.

238452

Invoice Date

10/3/2018

Total Due

: \$0.00

Job No.

: 203552

BU ID

: 21-00T-R

Case No.

: 1:17-CV-04869-FB-LB

Case Name

: Barger -v- First Data Corporation, et al.

Remit To:

Planet Depos, LLC

P.O. BOX 69136

Baltimore, MD 21264-9136



Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East Suite 4000 Princeton, NJ 08540

INVOICE

Invoice No.	Invoice Date	Job No.			
238452	10/3/2018	203552			
Job Date	Job Date Case No.				
8/31/2018	1:17-CV-04869-FB-LB				
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Barger -v- First Data C	orporation, et al.				
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(-) Payments/Credits:

485.70

(+) Finance Charges/Debits:

0.00

(=) New Balance:

\$0,00

Tax ID:

Please detach bottom portion and return with payment.

Gillian A. Cooper, Esquire Saul Ewing Arnstein & Lehr 650 College Road East Suite 4000 Princeton, NJ 08540 Invoice No.

: 238452

Invoice Date

: 10/3/2018

Total Due

: \$0.00

Job No.

: 203552

BU ID

: 21-OOT-R

Case No.

: 1:17-CV-04869-FB-LB

Case Name

: Barger -v- First Data Corporation, et al.

Remit To:

Planet Depos, LLC P.O. BOX 69136

Baltimore, MD 21264-9136

EXHIBIT 8

ST44 Rev. 04/18 Derived from A044 Rev. 04/18

UNITED STATES DISTRICT COURT For the Eastern District of New York

INVOICE NO.: 20192953

09-16-2019

Gary B. Eidelman

Saul Ewing, LLP (Baltimore)

500 E. Pratt Street Baltimore, MD 21202

(410) 332-8975 Fax: (410) 332-8976

gary.eidelman@saul.com

MAKE CHECKS PAYABLE TO:

ANTHONY D FRISOLONE, CSR, RDR, CRR

Official Court Reporter
225 Cadman Plaza East

Room 370 North Brooklyn, NY 11201

(718) 613-2487 Fax: (718) 613-2694

AFrisolone@aol.com`

Tax ID:

_ CRIMINAL X CIVIL

DATE ORDERED:

DATE DELIVERED:

09-24-2019

In the matter of: 17-CV-4869, Steven B. Barger v First Data Corporation

Trial ordered on an immediate delivery basis with word index.

CATEGORY	ORIGINAL 1 ST COPY			′		TOTAL				
CATEGORT	PAGES	PRICE	SUBTOTAL	PAGES	PRICE	SUBTOTAL	PAGES	PRICE	SUBTOTAL	CHARGES
Ordinary										
14-Day										
Expedited										
3-Day										
Daily										
Hourly	1087	7.98	8674.26							8674.26
Realtime										
Misc.	All word in	ndex, 155	pages @	7.98				Misc	. Charges	1236.90
									Subtotal	9911.16
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								Tax (If A	pplicable)	
							Les	s Amount	of Deposit	
	·							To	tal Refund	
									Total Due	9911.16

ADDITIONAL INFORMATION

Full price may be charged only if the transcript is delivered within the required time frame. For example, if an order for expedited transcript is not completed and delivered within (7) calendar days, payment would be at the 14-day delivery rate, and if not completed and delivered within 14 days, payment would be at the ordinary delivery rate.

CERTIFICATION

I certify that the transcript fees charged and page format used comply with the requirements of this court and the Judicial Conference of the United States.

SIGNATURE:
/s/ Anthony D. Frisolone

DATE:
10-02-2019

EXHIBIT 9

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Case 1:17ten 24869 թ.թ. հեն Document 136-3 Filed 10/18/19 Page 79 of 116 Page #: 7/707

4							✓	2 nights			Te
	8,	/1 None	Hotel	248.00	248.00		V		21-Aug-2016	a	
	8,	/2 None	Hotel Tax	45.04	-f5.04		✓	Hotel stay for 2 nights	21-Aug-2018	(FB)	
	8,	/3 None	Parking	24.00	24.00			Hotel stay for 2 nights	21-Aug-2018	(He)	
Ф	∃ 9		Car Rental	114.36	114.36		$ \mathbf{Z} $	Caraental on business trip	23-Aug-2018	B	
		None	Car Rental	73.00	73.00		$ \mathbf{Z} $		21-Aug-2018		
		None	Car Rental Tax	41.36	41.36		Ø	Includes Fuel Service, and taxes	23-Aug-2018	ī	
	10	None	Parking	28.00	28.00			Short term parking at airport	21 - Aug - 2018	a	

Expenses Audit Expenses Expail Home Logout Preferences

Privacy Statement

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Revert Save Report 1 of 40 Negt Return



Generated: 17 August 2018 20:11 GMT

Invoice Booking Reference LWC8MA

Trip ID -31324108450

Passenger Name(s)
BENHARDT/KATHI

Agent RC

American Express Global Business Travel 15100 NW 67th Ave. Suite 300

Miami Lakes, FL, 33014 Phone: +1 (669) 272-1548

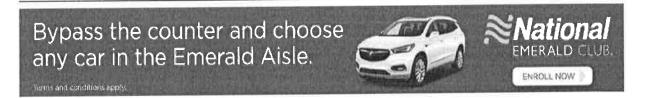
Thank you for booking your trip with us.

All of your travel arrangements can be found on the following pages of this itinerary.

Please check your travel details IMMEDIATELY to make sure they are correct. If your travel arrangements are NOT ACCURATE, please contact American Express Global Business Travel WITHIN 24 HOURS OF PURCHASE for regular transactions, or BY MIDNIGHT ON THE SAME DAY OF PURCHASE FOR EXCHANGE TRANSACTIONS, in order to avoid potential airline change fees.

To access your trip details online, visit https://mytrips.amexgbt.com

We hope you have a pleasant trip.



Take Parking Off the Agenda Book parking in advance at the airport, near meetings, and anywhere else you're going. BOOK PARKING

Prior to booking, please review your company's corporate travel policy in detail or check with your travel manager to ensure the booking is in compliance with your company's corporate travel policy.

Fulfilment of this offer or service will be managed by the advertiser. If you do not wish to receive marketing on your itinerary in the future, you can change your preferences by opting-out in your travel portal; https://mytrips.amexgbl.com

BILLING CODE:

199386-001

Invoice	Information		
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17 August 2018 Invoice Date 0044721 Invoice Dossier / Booking LWC8MA-1V Number

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Invoid	e De	tails

Ticket Number
Airline Name
Passenger Name
Flight Details

0067191961722 **DELTA AIR LINES INC** BENHARDT/KATHI 21 Aug 2018 DELTA AIRLINES 1372 Q Class

CHARLOTTE, NC/DETROIT/METRO, MI

21 Aug 2018 DELTA AIRLINES **5294 Q Class**

DETROIT/METRO,MI/OMAHA,NE 23 Aug 2018 DELTA AIRLINES 6276 Q Class

OMAHA, NE/DETROIT/METRO, MI 23 Aug 2018 DELTA AIRLINES

0526 Q Class

DETROIT/METRO, MI/CHARLOTTE, NC

Charges

Total	800.64
Online Ticket Fee	13.50
Total (USD) Ticket Amount	787.14
Ticket Tax Fare	95.94
Ticket Base Fare	691.20

Credit Card Information

	Charged by American Express Global Business Travel	13.50
Payment Details		
Charged to Card	AX XXXXXXXXXX2005	787.14
Charged to Card	AX XXXXXXXXXXX2005	13.50

787,14 Charged by Airline USD 800.64 **Total Invoice Charge**

Tuesday 21 August 2018

★06:00 AM

Charlotte (CLT) to Detroit (DTW)

Airline Booking Ref: G3PSUV

Carrier: Delta Air Lines Inc

Flight: DL 1372 Status: Confirmed

Operated By: Delta Air Lines Inc.

Origin: Charlotte, NC, Charlotte Douglas Intl Arpt (CLT)

Departure Terminal: Not Applicable Departing: Tuesday 21 August 2018 at 06:00 AM

Seat: 26A

Destination: Detroit, MI, Detroit Metro Wayne Cnty Arpt (DTW)

Arrival Terminal: EM Arriving: Tuesday 21 August 2018 at 07:50 AM

Additional Information

Distance: 503 Miles Class: Economy

Estimated Time: 01 hour 50 minutes

Aircraft Type: Boeing 717 Meal Service: Not Applicable

Frequent Flyer Number: Not Applicable

Number of Stops: 0

★08:30 AM Detroit (DTW) to Omaha (OMA)

Airline Booking Ref: G3PSUV

Flight: DL 5294 Status: Confirmed Carrier: Delta Air Lines Inc

Operated By: Endeavor Air Dba Delta Connection

Origin: Detroit, MI, Detroit Metro Wayne Cnty Arpt (DTW)

Departure Terminal: EM Departing: Tuesday 21 August 2018 at 08:30 AM

Destination: Omaha, NE, Eppley Airfield (OMA)

Arrival Terminal: Not Applicable Arriving: Tuesday 21 August 2018 at 09:36 AM

Additional Information

Class: Economy

Distance: 655 Miles

Estimated Time: 02 hours 06 minutes

Aircraft Type: Canadair Regional Jet 900

Seat: 14A

Meal Service: No meals

Frequent Flyer Number: Not Applicable

Number of Stops: 0

909:36 AM Avis Rent A Car

Pickup:

Location: 4501 Abbott Dr., Omaha, Ne Us, 68110-2633, Terminal 3

Date and Time: Tuesday 21 August 2018 at 09:36 AM

Phone: 402-422-6480

Drop Off:

Location: 4501 Abbott Dr, Omaha, Ne Us, 68110-2633, Terminal 3

Date and Time: Thursday 23 August 2018 at 06:15 AM

Phone: 402-422-6480

Car Type: Full Size 2/4 Door Automatic Air

Rate: USD 36.50 per day Extra Day: Not Applicable Mileage: Unlimited

Extra Hour: USD 27.39 per day

Approximate Total Rate: USD 106.11 additional local taxes and insurance costs may apply

Reference Number: 29785743US1 PEXP

Status: Confirmed

Additional Information

Membership ID: 4LP41X

Corporate Id: A455000

Special Requests: Not Applicable

Special Information: Not Applicable

جونا

HYATT PLACE OMAHA/DOWNTOWN-OLD MARK

Address: 540 South 12th Street, Omaha, NE, 68102, US

Phone: (1) 402-513-5500

Fax: (1) 402-513-5519

Check In Date: Tuesday 21 August 2018 Check Out Date: Thursday 23 August 2018

Number Of Nights: 2

Rate: USD 124.00 per night may be subject to local taxes and service charges

Guaranteed to: AX XXXXXXXXXXX2005

Reference Number: HY0010689413

Status: Confirmed

Number Of Rooms: 1

Additional Information

Membership ID: Not Applicable

24HRS PRIOR TO CHECKIN TO AVOID 1NT FEE

Corporate Id: CR63127

Thursday 23 August 2018

₹06:15 AM

Omaha (OMA) to Detroit (DTW)

Airline Booking Ref: G3PSUV

Carrier: Delta Air Lines Inc Flight: DL 6276 Status: Confirmed

Operated By: Gojet Airlines Dba Delta Connection

Origin: Omaha, NE, Eppley Airfield (OMA)

Departing: Thursday 23 August 2018 at 06:15 AM Departure Terminal: Not Applicable

Seat: 14D

Destination: Detroit, MI, Detroit Metro Wayne Cnty Arpt (DTW)

Arriving: Thursday 23 August 2018 at 09:13 AM Arrival Terminal: EM

Additional Information

Class: Economy

Distance: 655 Miles

Estimated Time: 01 hour 58 minutes

Aircraft Type: Canadair Regional Jet 700

Meal Service: No meals

Frequent Flyer Number: Not Applicable

Number of Stops: 0

★10:05 AM

Detroit (DTW) to Charlotte (CLT)

Airline Booking Ref: G3PSUV

Carrier: Delta Air Lines Inc Flight: DL 526 Status: Confirmed

Operated By: Delta Air Lines Inc

Origin: Detroit, Mi, Detroit Metro Wayne Cnty Arpt (DTW)

Departing: Thursday 23 August 2018 at 10:05 AM Departure Terminal: EM

Destination: Charlotte, NC, Charlotte Douglas Intl Arpt (CLT)

Arriving: Thursday 23 August 2018 at 11:57 AM Arrival Terminal: Not Applicable

Additional Information

Class: Economy

Distance: 503 Miles

Seat: 27A

Estimated Time: 01 hour 52 minutes

Aircraft Type: Boeing 717

Meal Service: Not Applicable

Frequent Flyer Number: Not Applicable

Number of Stops: 0

Additional Messages

This Reservation Was Booked By American Express Global Business Travel. FOR 24X7 Travel Reservations Please Call 1-669-272-1548

For Fdc Travel Program Questions/Suggestions
And Feedback - Please Contact
Globaltravelfirstdata.Com

Reservation Specific Questions Should Continue To Be Directed To The Amex Gbt Travel Team.

Faa Requires A Valid Government Issued Photo Id Your American Express Itinerary And A Boarding Pass Present At Security And All Check In Points.

Changes And Reissues Of Non-Refundable Tickets Are Subject To A Fee-Plus Fare Difference If The Original Fare Restrictions Are Not Met.

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First Data Requires All Travelers To Request Physical Access To Any First Data Facilities You Intend To Visit During Your Trip. You Can Access The Request Form Via Https://Sharepoint.1dc.Com/Sites/Esrc/Iscdsc/Support/Pages/Support.Aspx Please Direct Any Questions Or Issues To Badegrequest*Firstdata.Com

Check Online For Hotel Cancel Policies To Avoid No Show Charges To Your Corporate Card.

Info Security Policy - Urgent
All China/Russia-Bound Travelers Require Svp
Approval And To Submit To A Pre/Post Trip
Briefing From Joint Security Operations Center.
Travelers Must Call Jsoc At 1-800-368-1000 Available
24/7 International Or Domestic
Email: Jsocfirstdata.Com

To Schedule A Pre/Post Trip Briefing.

It Is First Data Policy If An Employee Travels
For More Than Fourteen Total (14) Days During A
Calendar Year To A Non-Primary Work State They
Are Required To Report Such Information. This
Should Be Done Using The Forecast Of Estimated
Days Worked By State Form Which Is Available
Online At

Firstweb/Hr/Money Matters/Us Taxes/Forecast Of Estimated Days Worked By State Form This Information Will Allow For Increased Accuracy In State Income Tax Withholding And Reporting.

Lowest Fare Offered 749.86

Ticket Is Non Refundable

Non Refundable Tickets Require

Changes/Cancellations Prior To

Original Date/Time Of Departure

If Not The Ticket May No Longer Have Value

Please Be Advised That Certain Mandatory Hotel-Imposed Charges Including But Not Limited To Daily Resort Or Facility Fees May Be Applicable To Your Stay And Payable To The Hotel Operator At Check-Out From The Property You May Wish To Inquire With The Hotel Before Your Trip Regarding The Existence And Amount Of Such Charges.

First Data requires all travelers to request physical access to any First Data facilities you intend to visit during your trip. You can access the request form via https://sharepoint.1dc.com/sites/esrc/iscdsc/Support/Pages/Support.aspx. Please direct any questions or issues to BadgeRequest@firstdata.com

IMPORTANT INFORMATION

For important information regarding your booking, in particular, in relation to the conditions applying to your booking, managing your booking and travel advisory, please refer to www.amexglobalbusinesstravel.com/booking-info.

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Page 6 of 6

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HYATT **PLACE**

Tel: 402-513-5500 Fax: 402-513-5519

INVOICE

Kathi Benhardt

Room No.

0722

Arrival

08-21-18

Departure

08-23-18

Folio Window 1

Folio No.

164198

0.00

Group Name Booking No.

Confirmation No.

LWC8MA

1068941301

Poorting 1101					
Date	Description			Charges	Credits
08-21-18	Guest Room			124.00	
08-21-18	Occupancy Tax 5.5%			6.82	
08-21-18	State Tax 5.5%			7.20	
08-21-18	City Tax 1.5%			1.96	
08-21-18	Lodging Tax 5%			6.54	
08-21-18	Parking Overnight - Self			12.00	
08-22-18	Guest Room			124.00	
08-22-18	Occupancy Tax 5.5%			6.82	
08-22-18	State Tax 5.5%			7.20	
08-22-18	City Tax 1.5%			1.96	
08-22-18	Lodging Tax 5%			6.54	
08-22-18	Parking Overnight - Self			12.00	
08-23-18	American Express	£	XXXXXXXXXXXX2005 XX/XX		317.04
		Total		317.04	317.04

Balance

Guest Signature

I agree that my liability for this bitl is not waived and I agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of these charges.

World of Hyatt Summary

No Membership to be credited

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Please remit payment to: Hyatt Place Omaha Downtown Old Market 540 South 12th Street Omaha, NE 68102

Report Name:

Cagwin Barger Trial New York

Employee

Employee Name:

Cagwin, Matthew L.

Employee ID:

245407

Report Header

Policy:

*FDC US Expense Policy

Business Purpose:

Barger Trial New York

Report Id:

810C7FC10B344E20977D

Receipts Received:

Yes

Report Date:

09/19/2019

Approval Status:

Approved

Payment Status:

Payment Confirmed

Currency:

US, Dollar

Transaction Date	Expense Type	Business Purpose	Vendor	City of Purchase	Payment Type	Amount
09/19/2019	Airfare Agency Baggage and Wifi fees	Barger Trial New York	DELTA AIR LINES	Atlanta	American Express	\$553.10
09/19/2019	Airfare Agency Baggage and Wifi fees	Barger Trial New York	AMERICAN EXPRESS TKT FEE	Phoenix	American Express	\$13.50
09/21/2019	Hotel	Barger Trial New York	MARRIOTT 337U0 BROOKLYN	New York	American Express	\$438.96
-88/16/2010	Hotel	Barger Trial New York	HILTON BROOKEWHEW YORK	/ elenka	American Express	\$460.70
09/19/2019	Meals Snacks Employee Travel	Barger Trial New York	ROCCOS TACO & TEQUILA BA	New York	American Express	\$31.40
09/20/2019	Parking	Barger Trial New York	ABM ATLANTA AIRPORT 0796	Atlanta	American Express	\$38.00
09/19/2019	Taxi/Shuttle	Barger Trial New York	UBER	San Francisco	American Express	\$57.39

Company Disbursements

Amount Due Employee: \$0.00
Amount Due Company Card: \$1,539.05
Total Paid By Company: \$1,539.05

Employee Disbursements

Amount Due Company Card From Employee: \$0.00

Total Paid By Employee: \$0.00



NEW YORK MARRIOTT BROOKLYN

GUEST FOLIO

591 ROOM KNG TYPE	CAGWIN/MAT NAME	THEW/L	365,00 RATE	09/20/19 DEPART 09/19/19 ARRIVE	TIME	DUPLICATE	9:07	48940 ACCT#
ROOM	ADDRESS		AXXXXXX) PAYMENT	CXXXXXX2006				MB#;
DATE	RE	FERENCES		HARGES	CF	REDITS T	RΔ	LANCES DUE
09/19 19/19 19/19 19/19 19/19 19/19 19/19 19/19 19/19 19/19	TELECOMM STATE TA NYC UTAX TELECOMM ROOM-TR STATETAX CITYTAX OCC TAX NYS TAX CCARD-AX AXXXXXXXXXXXX	BASEHSIA BASEHSIA BASEPHON 591, 1 591, 1 591, 1 OCCTAX NYSTAX ROOM C/O		14.95 1,33 ,35 ,30 365,00 365,00 32.39 21,44 2,00 1,50		438.96		EF INOLO DOE
		00FTGC T07FV						.00



NEW YORK MARRIOTT BROOKLYN 333 ADAMS ST BROOKLYN NY 11201

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Generated: 19 September 2019 12:31 GMT

Invoice Booking Reference N8835F

Trip ID - 31404536307

Passenger Name(s) CAGWIN/MATTHEW L

Agent OT

American Express Global Business Travel Phone: +1 (669) 272-1548

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Page 2 of 4

BILLING CODE	: 245407-0300			
Invoice Inform	nation			
Invoice Date	19 September 2019			
Invoice	0068280			
Dossier / Book	ng N8835F-1V			
Number	3			
Invoice Detail	5	Charge	s	
Ticket Number	0067406686957	Ticket I	Base Fare	487.92
Airline Name	DELTA AIR LINES INC	Ticket T	Tax Fare	65.18
Passenger Na	ne CAGWIN/MATTHEW L	Total (U	JSD) Ticket Amount	553.10
Flight Details	19 Sep 2019 DELTA AIRLINES	Online	Ticket Fee	13.50
	1586 K Class	Total		566.60
	ATLANTA,GA/NEW YORK/LGA,NY			
	20 Sep 2019 DELTA AIRLINES			
	2778 K Class NEW YORK/LGA,NY/ATLANTA,GA			
0 174 0 1 1				
Credit Card In				
Charged to Ca	AX XXXXXXXXXXX2006			13.50
Charged to Ca	d AX XXXXXXXXXX2006			553.10
Payment Deta	ls			
	Charged by Ameri	can Express Glob	al Business Travel	13.50
	Charged by Airline	}		553.10
	Total Invoice C	Charge	USD	566.60
Thursday 19 S	eptember 2019			
★ 01:30 PM				
	Airline Booking Ref: JJMX5P			
	Carrier: DELTA AIR LINES INC Flight: D	L 1586 Status:	Confirmed	
	Operated By: DELTA AIR LINES INC			
	Origin: Atlanta, GA, Hartsfield Jackson Int	Arpt (ATL)		
	Departing: Thursday 19 September 2019 at 01		re Terminal: S	
	Destination: New York, NY, La Guardia (L			
	Arriving: Thursday 19 September 2019 at 03:4	,	erminal: D	
	Additional Information			
		ance: 767 Miles	Estimated Time: 02 hours 12	minutes
-		:: 17A		
	Meal Service: No meals			
	Frequent Flyer Number: DL2247477066			
I	7. Togeont i iyot tidilibar, DEE27/17/1000			

Number of Stops: 0

Page 3 of 4

MARRIOTT AT BROOKLYN BRIDGE

Address: 333 ADAMS ST, Brooklyn, NY, 11201, US

Phone: (1718) 2467000

Fax: (1718) 2460563

Check In Date: Thursday 19 September 2019 Check Out Date: Friday 20 September 2019

Number Of Nights: 1

Rate: USD 365,00 per night may be subject to local taxes and service charges

Guaranteed to: AX XXXXXXXXXXX2006

Reference Number: 83396525

Status: Confirmed

Number Of Rooms: 1

Additional Information

Membership ID: Not Applicable

PERMITTED UP TO 03 DAYS BEFORE ARRIVAL

Corporate Id: FDC

Friday 20 September 2019

★07:00 PM

New York (LGA) to Atlanta (ATL)

Airline Booking Ref: JJMX5P

Carrier: DELTA AIR LINES INC Flight: DL 2778 Status: Confirmed

Operated By: DELTA AIR LINES INC Origin: New York, NY, La Guardia (LGA)

Departing: Friday 20 September 2019 at 07:00 PM Departure Terminal: D

Destination: Atlanta, GA, Hartsfield Jackson Intl Arpt (ATL)

Arriving: Friday 20 September 2019 at 09:30 PM Arrival Terminal: S

Additional Information

Class: ECONOMY

Distance: 767 Miles

Seat: 32C

Estimated Time: 02 hours 30 minutes

Aircraft Type: Airbus Industrie A321

Meal Service: No meals

meal Service: No meals

Frequent Flyer Number: DL2247477066

Number of Stops: 0

Additional Messages

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Changes And Relssues Of Non-Refundable Tickets Are Subject To A Fee-Plus Fare Difference If The Original

Fare Restrictions Are Not Met.

Ticket Is Non Refundable

Non Refundable Tickets Require

Changes/Cancellations Prior To

Original Date/Time Of Departure

If Not The Ticket May No Longer Have Value

Check Online For Hotel Cancel Policies To Avoid

No Show Charges To Your Corporate Card

Page 4 of 4

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Report Name:

September Expenses (09/01/2019)

Employee

Employee Name:

Stamey, Justin D.

Employee ID:

225163

Report Header

Policy:

*FDC US Expense Policy

Business Purpose:

Barger Trial

Report Id:

05CF7B5F08BB405AA2DC

Receipts Received:

Yes

Report Date :

09/18/2019

Approval Status:

Approved

Payment Status:

Sent for Payment

Currency:

US, Dollar

	Transaction Date	Expense Type	Business Purpose	Vendor	City of Purchase	Payment Type	Amount
-	COMMINION CHEST	Airfare Agency	Company of the Company		-til-ti-	American	3/200,30
	09/20/2019	Baggage and Wifi fees	Darger Thai	Derra	Availta	Express	4250.00
	00/20/2010	Airfare Agency Baggage and Wifi fees	Barger Tries	AMERICAN EXPRESS TKT FEE	Pheanin	American Express	-000.00
	09/18/2019	Airfare Agency Baggage and Wifi fees	Barger Trial	Delta	Atlanta	American Express	\$553.10
	09/18/2019	Airfare Agency Baggage and Wifi fees	Barger Trial	AMERICAN EXPRESS TKT FEE	Phoenix	American Express	\$13.50
	09/20/2019	Hotel	Barger Trial	TILLARYHOTEL	Great Neck	American Express	\$220.69
	09/20/2019	Parking	Barger Trial	ABM ATLANTA AIRPORT 0796	Atlanta	American Express	\$38.00
	09/19/2019	Taxi/Shuttle	Barger Trial	UBER	San Francisco	American Express	\$50.94

Company Disbursements

Amount Due Employee: \$0.00

Amount Due Company Card: \$1,191.61

Total Pald By Company: \$1,191.61

Employee Disbursements

Amount Due Company Card From Employee: \$0.00

Total Paid By Employee: \$0.00

Generated: 18 September 2019 16:57 GMT

Invoice Booking Reference X558WE

Trip ID -32004026702

Passenger Name(s) STAMEY/JUSTIN D

Agent OT

American Express Global Business Travel Phone: +1 (669) 272-1548

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BILLING CODE :	225163-0300		
Invoice Inform	ation		
Invoice Date	18 September 2019		
Invoice	0068206		
Dossier / Bookin	9 X558WE-1V		
Number			
Invoice Details		Charges	
Ticket Number	0067406686906	Ticket Base Fare	487.92
Airline Name	DELTA AIR LINES INC	Ticket Tax Fare	65.18
Passenger Nam		Total (USD) Ticket Amount	553.10
Flight Details	19 Sep 2019 DELTA AIRLINES	Online Ticket Fee	13.50
	2524 K Class	Total	566.60
	ATLANTA,GA/NEW YORK/LGA,NY		
	20 Sep 2019 DELTA AIRLINES 2769 K Class		
	NEW YORK/LGA,NY/ATLANTA,GA		
Credit Card Inf	1		
Charged to Car			13.50
•			553.10
Charged to Car	A		
Payment Detai			
	Charged by Ameri	ican Express Global Business Travel	13.50
	Charged by Airline	•	553.10
	Total Invoice (Charge USD	566.60
Thursday 19 S	eptember 2019		
★ 12:30 PM	Atlanta (ATL) to New York (LGA)		
24 12.50 f III	Airline Booking Ref: HHXNQ9		
	Carrier: DELTA AIR LINES INC Flight: I	OL 2524 Status: Confirmed	
	Operated By: DELTA AIR LINES INC	JE ZOZ , GRANGO GONNING	
	Origin: Atlanta, GA, Hartsfield Jackson Int	tl Arpt (ATL)	
	Departing: Thursday 19 September 2019 at 11		
	Destination: New York, NY, La Guardia (I		
	Arriving: Thursday 19 September 2019 at 02:		
		42 W Attivat terminal	
	Additional Information	tance: 767 Miles Estimated Time: 02 hours	12 minutes
	oldda. Eddinami	tance: 767 Miles Estimated Time: 02 hours It: 18B	12 miliotos
	Mildrate Typot / mode made at / 100		
	Meal Service: No meals		
	Frequent Flyer Number: DL9058935223		
	Number of Stops: 0		

Page 3 of 4

THE TILLARY HOTEL -FKA DAZZLER

Address: 85 Flatbush Avenue Extension, Brooklyn, NY, 11201, US

Phone: (1) 718-3299537 Fax: (1) 718-3299538

Check In Date: Thursday 19 September 2019 Check Out Date: Friday 20 September 2019

Number Of Nights: 1

Rate: USD 191.20 per night may be subject to local taxes and service charges

Guaranteed to: AX XXXXXXXXXXX1003

Reference Number: 482189769 Status: Confirmed

Number Of Rooms: 1

Additional Information

Membership ID: Not Applicable

Cornorate Id: AMEXEXPPEHP

RESERVATIONS MUST BE CANCELLED 24 HOURS PRIOR

Friday 20 September 2019

★08:00 PM

New York (LGA) to Atlanta (ATL)

Airline Booking Ref: HHXNQ9

Carrier: DELTA AIR LINES INC Flight: DL 2769 Status: Confirmed

Operated By: DELTA AIR LINES INC Origin: New York, NY, La Guardia (LGA)

Departing: Friday 20 September 2019 at 08:00 PM Departure Terminal: D

Destination: Atlanta, GA, Hartsfield Jackson Intl Arpt (ATL)

Arriving: Friday 20 September 2019 at 10:32 PM Arrival Terminal: S

Additional Information

Class: ECONOMY

Distance: 767 Miles

Seat: 32F

Estimated Time: 02 hours 32 minutes

Aircraft Type: Airbus Industrie A321

Meal Service: No meals

Frequent Flyer Number: DL9058935223

Number of Stops: 0

Additional Messages

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Changes And Reissues Of Non-Refundable Tickets Are Subject To A Fee-Plus Fare Difference If The Original

Fare Restrictions Are Not Met.

Ticket Is Non Refundable

Non Refundable Tickets Require Changes/Cancellations Prior To Original Date/Time Of Departure

If Not The Ticket May No Longer Have Value Check Online For Hotel Cancel Policies To Avoid

No Show Charges To Your Corporate Card

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 99 of 116 PageID #: 7727

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Report Name:

Travel to New York - Barger Tria

Employee

Employee Name:

Voycheske, Jennifer L.

Employee ID:

175635

Report Header

Policy :

*FDC US Expense Policy

Business Purpose:

Testify at Barger Trial

Report Id:

F9FE8D57D4A743CDB0B2

Receipts Received:

Yes

Report Date:

09/27/2019

Approval Status:

Approved

Payment Status:

Sent for Payment

Currency:

US, Dollar

Transacti Date	on Expense Type	Business Purpose	Vendor	City of Purchase	Payment Type	Amount
09/18/201	Airfare Agency Baggage and Wifi fees	Testify at Barger Trial	AMERICAN EXPRESS TKT FEE	Phoenix	American Express	\$13.50
09/18/201	Airfare Agency Baggage and Wifi fees	Testify at Barger Trial	Delta	Atlanta	American Express	\$521.49
09/18/201	Airfare Agency Baggage and Wifi fees	Testify at Barger Trial	AMERICAN EXPRESS TKT FEE	Phoenix	American Express	\$13.50
09/23/201	9 Hotel	Testify at Barger Trial	MILLENIUM HILTON	New York	American Express	\$871.21
09/21/201	9 Hotel	Testify at Barger Trial	MARRIOTT 337U0 BROOKLYN	New York	American Express	95.15
09/22/201	9 Meals Snacks Employee Travel	Testify at Barger Trial	CIBO EXPRESS RETAIL C	Flushing	American Express	\$23.17
09/22/201	Meals Snacks Employee Travel	Testify at Barger Trial	VOYAGE BAKERY	Flushing	American Express	\$2.00

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 101 of 116 Page 100#3

09/22/2019	Meals Snacks Employee Travel	Testify at Barger Trial	COTTO MARKET	Flushing	American Express	\$8.20
09/20/2019	Meals Snacks Employee Travel	Testify at Barger Trial	BAYWAY COURTHOUSE CAFE	Flushing	American Express	\$1.52
09/20/2019	Meals Snacks Employee Tra∨el	Testify at Barger Trial	KRACKY MCGEE'S	Omaha	American Express	\$9,67
09/21/2019	Parking	Testify at Barger Trial	OMAHA AIRPORT	Omaha	American Express	\$48.00
09/21/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$16.87
09/21/2019	Taxì/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$59.05
09/20/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$13.33
09/20/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$3.08
09/20/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$5,13
09/20/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$18.47
09/20/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$16.10
09/20/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$5.13
09/19/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$16.81
09/19/2019	Taxi/Shuttle	Testify at Barger Trial	VTS INDEPENDENT DRIVERS	Astoria	American Express	\$50,38
09/19/2019	Taxi/Shuttle	Testify at Barger Trial	UBER	San Francisco	American Express	\$5.13

Company Disbursements

\$0.00 Amount Due Employee: Amount Due Company Card: \$1,726.89

Total Paid By Company:

\$1,726.89

Employee Disbursements

Amount Due Company Card From Employee: \$0.00 \$0.00

Total Paid By Employee:

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 103 of 116 PageID #: 7731 Page 1 of 5



Generated: 18 September 2019 18:04 GMT

Invoice Booking Reference WBP344

Trip ID - 31954563844

Passenger Name(s)
VOYCHESKE/JENNIFER L

Agent OT

American Express Global Business Travel Phone: +1 (669) 272-1548

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Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 104 of 116 PageID #: 7732 Page 2 of 5

BILLING CODE :	175635-0110	
Invoice Inform	ation	
Invoice Date	18 September 2019	
Invoice	0068218	
Dossier / Booki Number	ng WBP344-1V	
Invoice Details		Charges
Ticket Number	0067406686913	Ticket Base Fare 822.30
Airline Name	DELTA AIR LINES INC	Ticket Tax Fare 107.67
Passenger Nan	ne VOYCHESKE/JENNIFER L.	Total (USD) Ticket Amount 929.97
Flight Details	22 Sep 2019 DELTA AIRLINES	Online Ticket Fee 13.50
	1098 B Class	Total 943.47
	OMAHA,NE/ATLANTA,GA	
	22 Sep 2019 DELTA AIRLINES	
	1286 B Class	
	ATLANTA,GA/NEW YORK/LGA,NY	
	24 Sep 2019 DELTA AIRLINES	
	2149 B Class NEW YORK/LGA,NY/MINNEAPOLIS/ST PAUL	
	24 Sep 2019 DELTA AIRLINES	
	3941 B Class	
	MINNEAPOLIS/ST PAUL/OMAHA,NE	
Credit Card Inf		
Charged to Car	d AX XXXXXXXXXXX1003	13.50
Charged to Car	d AX XXXXXXXXXXX1003	929.97
Payment Detai		
	Charged by American	Express Global Business Travel 13.50
	Charged by Airline	929.97
	Total Invoice Cha	rge USD 943.47
Sunday 22 Sep		
★ 05:48 AM	Omaha (OMA) to Atlanta (ATL)	
	Airline Booking Ref: HBP4Q8	
	Carrier: DELTA AIR LINES INC Flight: DL 1	098 Status: Confirmed
	Operated By: DELTA AIR LINES INC	
	Origin: Omaha, NE, Eppley Airfield (OMA)	
	Departing: Sunday 22 September 2019 at 05:48 A	
	Destination: Atlanta, GA, Hartsfield Jackson I	
	Arriving: Sunday 22 September 2019 at 09:05 AM	Arrival Terminal: S
	Additional Information	
	Class: ECONOMY Distance	839 Miles Estimated Time: 02 hours 17 minutes
	Aircraft Type: McDonnell Douglas MD-90 Seat: 16E	
	Meal Service: No meals	
	Frequent Flyer Number: DI. 9475319969	

Case 1:17-cv-04869-FB-LB Document 136-3 Filed 10/18/19 Page 105 of 116 PageID #:

★10:30 AM Atlanta (ATL) to New York (LGA)

Airline Booking Ref: HBP4Q8

Carrier: DELTA AIR LINES INC Flight: DL 1286 Status: Confirmed

Operated By: DELTA AIR LINES INC

Origin: Atlanta, GA, Hartsfield Jackson Intl Arpt (ATL)

Departing: Sunday 22 September 2019 at 10:30 AM Departure Terminal: S

Destination: New York, NY, La Guardia (LGA)

Arriving: Sunday 22 September 2019 at 12:40 PM Arrival Terminal: D

Additional Information

Distance: 767 Miles Class: ECONOMY

Estimated Time: 02 hours 10 minutes

Alroraft Type: Airbus Industrie A321

Seat: 20F

Meal Service: No meals

Frequent Flyer Number: DL9475319969

Number of Stops: 0

200 MARRIOTT AT BROOKLYN BRIDGE

Address: 333 ADAMS ST, Brooklyn, NY, 11201, US

Phone: (1718) 2467000

Fax: (1718) 2460563

Check In Date: Sunday 22 September 2019 Check Out Date: Tuesday 24 September 2019

Number Of Nights: 2

Rate: USD 365.00 per night may be subject to local taxes and service charges

Guaranteed to: AX XXXXXXXXXXX1003

Reference Number: 81487704

Number Of Rooms: 1 Status: Confirmed

Additional Information

Membership ID: Not Applicable

Corporate Id: FDC

PERMITTED UP TO 03 DAYS BEFORE ARRIVAL

Tuesday 24 September 2019

X 12:00 PM

New York (LGA) to Minneapolis (MSP)

Airline Booking Ref: HBP4Q8

Carrier: DELTA AIR LINES INC Flight: DL 2149 Status: Confirmed

Operated By: DELTA AIR LINES INC Origin: New York, NY, La Guardia (LGA)

Departing: Tuesday 24 September 2019 at 12:00 PM Departure Terminal: D

Destination: Minneapolis, MN, Minneapolis St Paul Intl (MSP)

Arriving: Tuesday 24 September 2019 at 02:06 PM Arrival Terminal: 1

Additional Information

Class: ECONOMY

Distance: 1034 Miles

Seat: 15F

Estimated Time: 03 hours 06 minutes

Aircraft Type: Airbus Industrie A319

Meal Service: Refreshments to Purchase

Frequent Flyer Number: DL9475319969

Number of Stops: 0

Page 4 of 5

★03:35 PM | Minneapolis (MSP) to Omaha (OMA)

Airline Booking Ref: HBP4Q8

Carrier: DELTA AIR LINES INC Flight: DL 3941 Status: Confirmed

Operated By: SKYWEST DBA DELTA CONNECTION Origin: Minneapolis, MN, Minneapolis St Paul Intl (MSP)

Departing: Tuesday 24 September 2019 at 03:35 PM Departure Terminal: 1

Destination: Omaha, NE, Eppley Airfield (OMA)

Arriving: Tuesday 24 September 2019 at 04:55 PM Arrival Terminal: Not Applicable

Additional Information

Class: ECONOMY

Distance: 263 Miles

Estimated Time: 01 hour 20 minutes

Aircraft Type: Canadair Regional Jet 900

Seat: 12D

Meal Service: Not Applicable

Frequent Flyer Number: DL9475319969

Number of Stops: 0

Additional Messages

FOR 24X7 Travel Reservations Please Call 1-669-272-1548

Faa Requires A Valid Government Issued Photo Id Your American Express Itinerary And A Boarding Pass Present At Security And All Check In Points.

Changes And Reissues Of Non-Refundable Tickets Are Subject To A Fee-Plus Fare Difference If The Original Fare Restrictions Are Not Met.

Ticket Is Non Refundable

Non Refundable Tickets Require

Changes/Cancellations Prior To

Original Date/Time Of Departure

If Not The Ticket May No Longer Have Value

Check Online For Hotel Cancel Policies To Avoid

No Show Charges To Your Corporate Card

Please Be Advised That Certain Mandatory Hotel-Imposed Charges Including But Not Limited To Daily Resort Or Facility Fees May Be Applicable To Your Stay And Payable To The Hotel Operator At Check-Out From The Property.

You May Wish To Inquire With The Hotel Before Your Trip

Regarding The Existence And Amount Of Such Charges.

First Data requires all travelers to request physical access to any First Data facilities you intend to visit during your trip. You can access the request form via

https://sharepoint.1dc.com/sites/esrc/iscdsc/Support/Pages/Support.aspx. Please direct any questions or issues to BadgeRequest@firstdata.com

IMPORTANT INFORMATION

For important information regarding your booking, in particular, in relation to the conditions applying to your booking, managing your booking and travel advisory, please refer to www.amexglobalbusinesstravel.com/booking-info.

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Generated: 18 September 2019 21:55 GMT

Invoice Booking Reference JRGRHU

Trip ID -31194989106

Passenger Name(s)
VOYCHESKE/JENNIFER L

Agent OT

American Express Global Business Travel Phone: +1 (669) 272-1548

Thank you for booking your trip with us.

All of your travel arrangements can be found on the following pages of this itinerary.

Please check your travel details IMMEDIATELY to make sure they are correct. If your travel arrangements are NOT ACCURATE, please contact American Express Global Business Travel WITHIN 24 HOURS OF PURCHASE for regular transactions, or BY MIDNIGHT ON THE SAME DAY OF PURCHASE FOR EXCHANGE TRANSACTIONS, in order to avoid potential airline change fees.

To access your trip details online, visit https://mytrips.amexgbt.com

We hope you have a pleasant trip.



Fast track to Platinum Elite status!

Gain all the benefits of Elite status in just five nights - whether your next stay is at a Holiclay Inn, Crowne Plaza or InterContinental.

*Register before October 31, 2019 to redeem.

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Fulfilment of this offer or service will be managed by the advertiser. If you do not wish to receive marketing on your itinerary in the future, you can change your preferences by opting-out in your travel portal; https://mytrips.amexgbt.com

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BILLING CODE :	175635-0110		
Invoice Inform	ation		
Invoice Date	18 September 2019		
Invoice	0068244		
Dossier / Booki	ng JRGRHU-1V		
Number	I.		
Invoice Details		Charges	
Ticket Number	0067406686931	Ticket Base Fare	458.50
Airline Name	DELTA AIR LINES INC	Ticket Tax Fare	62.99
Passenger Nan	ne VOYCHESKE/JENNIFER L	Total (USD) Ticket Amount	521.49
Flight Details	19 Sep 2019 DELTA AIRLINES	Online Ticket Fee	13.50
	4072 K Class	Total	534.99
	OMAHA,NE/NEW YORK/LGA,NY		
	21 Sep 2019 DELTA AIRLINES		
	3574 L Class		
	NEW YORK/LGA,NY/OMAHA,NE		
Credit Card Int			13.50
Charged to Car	d AX XXXXXXXXXXX1003		
Charged to Car	d AX XXXXXXXXXX1003		521.49
Payment Detai	ls		
	Charged by Am	nerican Express Global Business Travel	13.50
	Charged by Air	tine	521.49
	Total Invoic	e Charge USD	534.99
Thursday 19 S	eptember 2019		
★ 06:01 AM	Omaha (OMA) to New York (LGA)		
44 00:01 AIII	Airline Booking Ref: HQA98D		
	Carrier: DELTA AIR LINES INC Fligh	t-DL 4072 Status-Confirmed	
	Operated By: SKYWEST DBA DELTA		
	Origin: Omaha, NE, Eppley Airfield (ON		
		at 06:01 AM Departure Terminal: Not Applicable	
	Destination: New York, NY, La Guardia Arriving: Thursday 19 September 2019 at 1		
		10.00 AIVI AITIVAL TETIMINAL D	
	Additional Information		,
	010001 2001101111	Distance: 1166 Miles Estimated Time: 02 hours 59 minu	utes
	Aircraft Type: EMBRAER 175 JET	Seat: Not Assigned	
	Meal Service: Refreshments to Purchase		
	Frequent Flyer Number: DL9475319969		
×	Number of Stops: 0		

يسار

MILLENNIUM HILTON NEW YORK DWNTWN

Address: 55 Church Street, New York, NY, 10007, US

Phone: (1) 212-693-2001 Fax: (1) 212-571-2316

Check In Date: Thursday 19 September 2019 Check Out Date: Saturday 21 September 2019

Number Of Nights: 2

Rate: USD 343.17 per night may be subject to local taxes and service charges

Guaranteed to: AX XXXXXXXXXXXX1003

Reference Number: 3138430528NON SMKING CONF Status: Confirmed

Number Of Rooms: 1

Additional Information

Membership ID: 240177937 CXL 3 DAYS PRIOR TO ARRIVAL Corporate Id: N0147111

Saturday 21 September 2019

12:20 PM New York (LGA) to Omaha (OMA)

Airline Booking Ref: HQA98D

Carrier: DELTA AIR LINES INC Flight: DL 3574 Status: Confirmed

Operated By: SKYWEST DBA DELTA CONNECTION

Origin: New York, NY, La Guardia (LGA)

Departing: Saturday 21 September 2019 at 12:20 PM Departure Terminal: D

Destination: Omaha, NE, Eppley Airfield (OMA)

Arriving: Saturday 21 September 2019 at 02:36 PM Arrival Terminal: Not Applicable

Seat: 18D

Additional Information

Class; ECONOMY

Distance: 1166 Miles

Estimated Time: 03 hours 16 minutes

Aircraft Type: EMBRAER 175 JET

Meal Service: Refreshments to Purchase

Frequent Flyer Number: DL9475319969

Number of Stops: 0

Additional Messages

FOR 24X7 Travel Reservations Please Call 1-669-272-1548 ***************

Faa Requires A Valid Government Issued Photo Id Your American Express Itinerary And A Boarding Pass

Present At Security And All Check In Points.

Changes And Reissues Of Non-Refundable Tickets Are Subject To A Fee-Plus Fare Difference If The Original Fare Restrictions Are Not Met.

************** *************

Ticket Is Non Refundable

Non Refundable Tickets Require

Changes/Cancellations Prior To

Original Date/Time Of Departure

If Not The Ticket May No Longer Have Value

Check Online For Hotel Cancel Policies To Avoid

No Show Charges To Your Corporate Card

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Guaranteed Subpoena Service, Inc. P.O. Box 2245 - Urion, New Jersey 07083 (908) 687-0056 "(800) 672-1952 Fax: (908) 088-0885 Tax IO 22-2393485 www.Served.com

YOU CAN NOW PRINT A RECEIPT ONLINE AS A PAYMENT CONFIRMATION FOR YOUR RECORD. SAVE A STAMP, TIME AND EFFORT AND PAY THIS INVOICE ONLINE! YOU MAY USE VISA MASTERCARD, AMERICAN EXPRESS, DISCOVER OR EVEN A PAYPAL ACCOUNT!



Batch # 10452

INVOICE

SAUL EWING ARNSTEIN & LEHR-PRINCETON GARY B. EIDELMAN, ESQ. 650 COLLEGE ROAD, EAST SUITE 4000 PRINCETON NJ 08540-6803

INVOICE #: 20180905111820 AMOUNT DUE: \$90.00 DUE DATE: 10/18/2018

WE RESERVE THE RIGHT TO CHARGE 18% APR INTEREST (0.049316% DPR PAST THE DUE DATE) ON ALL UNPAID BALANCES.

ear along the perforation a	nd keep the middle stub for yo	our records! Return the bottom st	ub with your payment. Thank you for your business
AMOUNT DUE: \$90.00 ATTORNEY: FIRM:	INVOICE#: 201809051118 GARY B. EIDELMAN, ESC SAUL EWING ARNSTEIN	l.	E: 9/18/2018
PLAINTIFF: DEFENDANT:	STEVEN B. BARGER FIRST DATA CORPORATI		
DOCKET#: ENTITY SERVED:	1 17 CV 04869 FB LB GRANT BARGER	CLAI	M# :
SERVED WITH:	LETTER, SUBPOENA TO	TESTIFY, EXHIBIT	
SERVED DATE:	9/8/2018	COURT DATE:	9/17/2018
ATTENDANCE FEE:	\$55,00	PAYMENT SENT ON:	
BULK SERVICE FEE: MILEAGE FEE:	\$35.00 \$0.00	AMOUNT PAID:	
PRIORITY FEE: PICKUP FEE; INCORRECT ADDRESS F	\$0.00 \$0.00 EE: \$0.00	[]CHECK	
POSTAL FORWARDING I CASH ATTACHED:	FEE: \$0.00 \$0.00	MASTERCARD DISCOVER	
WAIT TIME NOTARY/MISC. FEE: TOTAL:	\$0.00 \$0.00 \$90.00	[] AMERICAN EXPRESS CARD/CHECK#:	

Tear along the perforation and keep the middle stub for your records! Return the bottom stub with your payment. Thank you for your business!

YOUR STATEMENT OF ALL UNPAID INVOICES CAN BE VIEWED ONLINE ANYTIME WITH YOUR FIRM ID

SAUL EWING ARNSTEIN & LEHR-PRINCETON 650 COLLEGE ROAD, EAST SUITE 4000 PRINCETON NJ 08540-6603	INVOICE #: AMOUNT DUE: DUE DATE:	20180905111820 \$90.00 10/18/2018
For the fastest resolution to your billing inquiry, email us at:	() CHECK	
Billing@Served.com	[] Visa [] MasterCard	[] Discover [] American Express
GUARANTEED SUBPOENA SERVICE, INC.	CARD#: LLLL	
WWW.SERVED.COM P.O. BOX 2248	EXPIRATION://	
UNION, NJ 07083	SIGNATURE:	

20180905111820

*** To Pay Online Go To "My Account" ***

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Priority+ Legal Services, Inc. Legal Legs, LTD. PO Box 540 Reisterstown, MD 21136

Invoice

Date	Invoice #
5/24/2018	77776

E-Mail	Priorityplus@aot.com				
Phone #	Fax#	Federal Tax ID Number			
443-277-6180	410-558-6565				
Bill To					
Saul Ewing LLP 500 E. Pratt Street Baltimore, MD 21202					

Ordered By:

Kimberly Crampton

Plaintiff	Defendant	Client/Matter#	Terms
Barger	First Data Corporation, et al.		Net 30
Description	Subject of Service	Rate	Amount
UT OF STATE PROCESS SERVICE	Julie Kelly	185.00	185.0
Please note that our phone is have changed. The phone 443-277-6180 and the Fax 410-558-6565.	is now is now		
We now accept Master Visa & Discover.			

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Priority+ Legal Services, Inc. Legal Legs, LTD. PO Box 540 Reisterstown, MD 21136

Invoice Invoice # Date 5/24/2018 77777

E-Mail	E-Mail Priorityplus@aol.com	
Phone #	Fax#	Federal Tax ID Number
443-277-6180	410-558-6565	
Bill To	V	
Saul Ewing LLP 500 E. Pratt Street Baltimore, MD 21202		

Ordered By:	
Kimberly Crampton	

Plaintiff	Defendant	Client/Matter#	Terms
Barger	First Data Corporation, et al.		Net 30
Description	Subject of Service	Rate	Amount
JT OF STATE PROCESS SERVICE	Ashley Parrish	185.00	185.0
Please note that our phone have changed. The phone 443-277-6180 and the Fax 410-558-6565. We now accept Master Visa & Discover	ris now x is now rCard,		

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Priority+ Legal Services, Inc. Legal Legs, LTD. PO Box 540 Reisterstown, MD 21136

Invoice

Date	Invoice #
5/24/2018	77778

E-Mail	Priorityplus@aol.com	
Phone #	Fax#	Federal Tax ID Number
443-277-6180	410-558-6565	
Bill To		
Saul Ewing LLP 500 E. Pratt Street Baltimore, MD 21202		

Ordered By:	
Kimberly Crampton	

	Plaintiff	Defendant	Client/Matter#	Terms
	Barger	First Data Corporation, et al.		Net 30
I	Description	Subject of Service	Rate	Amount
nd Docu	ment Fee	Dr, Harry M. Baddour	75.00	75.0
ŀ	ease note that our phone r have changed. The phone i 143-277-6180 and the Fax 410-558-6565. We now accept Master	is now		
	Visa & Discover.			